Supreme Court, U.S.
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ALEXANDER L. STEVAS,
CLERK

No. 81-9

IN THE

SUPREME COURT

OF THE

UNITED STATES

OCTOBER TERM, 1980

STATE OF WASHINGTON, et al.,

Appellants,

v.

SEATTLE SCHOOL DISTRICT No. 1, et al.,

Appellees.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Jurisdictional Statement Filed June 24, 1981
Probable Jurisdiction Noted October 13, 1981

JOINT APPENDIX

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(Continued Inside Back Cover)

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1980

No. 81-9

STATE OF WASHINGTON, et al., Appellants, v. SEATTLE SCHOOL DISTRICT NO. 1, et al., Appellees,	ERRATA SHEET

There should be included within the Relevant Docket Entries on pp. 1-7 the following, at the request of Appellees:

DATE	NR.	PROCEEDINGS
Dec. 5	10	Filed Pltffs memorandum in support of injunctive relief
Jan. 30	90	Filed motion of U.S. Dept. of Justice for leave to file brief for the U.S. as Amicus Curiae LODGED Brief for U.S. as Amicus Curiae LODGED Order
Feb. 9	100	Filed and entered Order granting U.S. leave to file brief as amicus curiae in support of pltffs position. Copy to counsel.
	101	Filed U.S. Brief as Amicus Curiae
Mar. 27	152	Memorandum of U.S. in support of
	154	Filed certificate of Atty General Griffin Bell

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The Findings of Fact and Conclusions of Law and the Opinion of the District Court, the Court of Appeals' Opinion, and the District Court Order Denying Attorneys' Fees Are Reprinted as Appendices A, B and C to the Jurisdictional Statement, and Will Not Be Reprinted Herein.

RELEVANT DOCKET ENTRIES

DATE	NR.	PROCEEDINGS
Nov. 30	1	Filed Complaint & issued summons.
Dec. 4	9	Filed and entered TRO.
Jan. 13	43	Filed Defts State of Washingtons ANSWER.
Jan. 25	68	Filed States Defts Brief in opposition to motion for Preliminary Injunction.
Jan. 25	70	Filed American Civil Liberties Union et al motion for apptment of Guardian Ad Litem for Minor Children and for leave to intervene.
	72	Filed East Pasco Neighborhood Council et al motion to intervene as pltffs.
		LODGED COMPLAINT in Intervention.
Jan. 26		Ent. CIVIC's motion to intervene as defts submitted w/o argument.
Jan. 31	80	Filed and entered Order GRANTING C.I.V.I.C.'s leave to intervene as defts.
Feb. 2	92	LODGED ORDER Granting motion for appt. of Guardians Ad Litem.
		LODGED ORDER Granting leave to intervene Amer. Civil Liberties Union, et al.
Feb. 7		LODGED Order to Intervene Re: East Pasco Neighborhood Council et al.
Feb. 9		Ent. Preliminary Injunction hearing had.
	102	Filed Order granting East Pasco Neighborhood Council et al leave to intervene. Copy to counsel.
	103	Filed order GRANTING American Civil Liberties Union, et al leave to intervene. Copy to counsel.
	104	Filed Order appointing Guardian Ad Litem, see order for details.
	105	Filed amended order cont. TRO to Feb. 14, 1979 at 12:00 or until further order of the Court. Copy to counsel.

Feb. 12	106	Filed Complaint in Intervention.
Feb. 14	107	Filed deft intervenors C.I.V.I.C. et al ANSWER.
Feb. 14	108	Filed and entered Order GRANTING Preliminary Injunction Pendente Lite. Copy to all counsel.
Feb. 14	109	Filed intervening pltffs East Pasco Neighborhood Council's Complaint in intervention.
Mar. 2	121	Filed ANSWER of C.I.V.I.C. et al to complaint in Intervention of East Pasco Neighborhood Council, et al.
	122	FILED Answer of C.I.V.I.C. et al to complaint in intervention of Amer. Civil Liberties Union et al.
Mar. 13		LODGED Pltffs' proposed Pretrial Order.
	133	Filed pltffs memorandum in support of proposed PTO.
Mar. 16		Ent. Pre-trial hearing had. Court signs Order appting Guardian ad Litem and Order concerning service. Apr. 23 Trial will be on the question of Constitutionality. Pltffs to propose finding with exhibits on or before Mar. 30, 1979 and defts on or before Apr. 13, 1979. Specific responses to new findings due on or before Apr. 20, 1979. Trial Briefs due on Apr. 16, 1979 and limited to 20 pages. Motion to disqualify is set for hearing Mar. 23, 1979 at 3:00 pm. Final Pretrial hearing set for Apr. 20, 1979 at 2:00 pm.
Mar. 23	142	Filed ANSWER of State defts to complaints in intervention of American Civil Liberties and East Pasco Neighborhood Council, et al.
Mar. 27	151	Filed motion of U.S. for leave to intervene as pltff-
		LODGED COMPLAINT

Mar. 29		Lodged Order Granting Leave to Intervene
Mar. 30	164	Filed State defts response to motion of U.S. for leave to intervene as pltff and/ or request for hearing.
	165	Filed pltffs proposed First set of findings of fact & conclusions of law — Initial Proposals.
Apr. 4	173	Filed Order Granting U.S. Leave to intervene as pltff.
	173A	Filed Pltff Intervenor U.S. Complaint in Intervention.
Apr. 13	211	Stipulated motion for dismissal of Deft. King County Prosecuting Atty.
	212	Filed and entered Stipulated Order and Jdmt of dismissal of Deft King County Pros. Atty. Copy to counsel.
Apr. 16	214	Filed Pasco Interv/Pltfs Trial Memorandum.
	215	Filed Pasco Interv/Pltfs suggestion of Lack of Jurisdiction.
Apr. 18	226	Int. Deft CIVIC et al's ANSWER to Complaint in intervention of U.S.
	227	U.S. Pretrial Brief.
	228	Trial Brief of State of Wash. defts.
Apr. 20	245	Pasco Intervening Pltffs motion to dismiss for lack of Jurisdiction.
Apr. 23	353	PROPOSED First Set of Findings & Conclusions.
Apr. 23		Ent. First day Court Trial, Vern Sorensen, exhibits.
	358	State Defts ANSWER to U.S. Complaint in intervention.
Apr. 24		Ent. 2nd day Court Trial, V. Sorensen c/r. Exbt's.
Apr. 25	362	Transcript of Proceedings, of Feb. 9, 1979 before Judge Voorhees.
	363	Transcript of Proceedings, of Mar. 16, 1979 before Judge Voorhees.

Apr. 25		Ent. 3rd day Court Trial. V. Sorensen C/R, exbts.
Apr. 26		Ent. 4th Day Court Trial. V. Sorensen Court Reporter, exbts.
Apr. 27		Ent. 5th Day Court Trial, V. Sorensen Ct. Reporter, exbts.
Apr. 30		Ent. 6th Day Court Trial, V. Sorensen Ct. Reporter, exbts.
May 1		Ent. 7th day Court Trial, V. Sorensen Ct. Reporter, exbts.
May 9	372	MEMORANDUM — pltfs in opposition to Pasco Interv. mot. to dismiss.
May 10		ENT. 8th day of Court Trial Joe Roth Ct. Reporter. Exbts.
May 11		ENT. 9th Day Court Trial, Vern Sorensen Ct. Reporter Exbts. Mr. Murphy to present order Re: scheduling for filing pleadings. Oral Argument set for Fri. June 15, 1979. Pltf. joins with Pasco Intervenor in motion to dismiss for lack of jurisdiction, motion taken under advisement.
May 23	374	ORDER — Regarding preparation of Post-trial briefs & submission of proposed findings & conclusions. Briefs all due June 8, 1979 and others May 29, 1979 and June 1, 1979. C to C.
	375	ORDER — Denying Pasco Interv. motion to dismiss claims of Pasco School District.
May 29	376	FINDINGS & CONCLUSIONS — proposed of Seattle Pltf Intervenors.
	377	FINDINGS & CONCLUSIONS — proposed of Pasco Pltf Intervenors.
		LODGED Pltfs Proposed Findings & Conclusions.
June 1	378	EXCEPTIONS — of Interv. Deft C.I.V.I.C. to Pltf proposed F & C.
		LODGED Intv. Deft CIVIC'S proposed

Findings & Conclusions.
LODGED State Defts Proposed Findings & Conclusions.

June 8 381 BRIEF — Post Trial of Sea. Interven. Pltfs.
382 BRIEF — Post Trial of Pasco Interven. Pltfs.
383 BRIEF — Post Trial of CIVIC et al Interv. Defts.
384 MEMORANDUM — Post Trial of Pltfs.
June 8 387 BRIEF — Post Trial of State Defts.
June 11 Ent. 10th day of Court Trial, Vern Sorensen Court Reporter. After hearing arguments of cnsl, the Court takes matter under advisement. Court advises cnsl that he will try to have his Opinion filed in the Clerk's office on or before Fri. June 15, 1979 by 2:00 p.m.
June 13 390 BRIEF — Seattle Urban League's Post Trial.
June 15 393 FINDINGS OF FACT & CONCLUSIONS OF LAW. Copies to cnsl.
394 MEMORANDUM OPINION — Court finds that Init. 350 Unconstitutional and grants pltfs motion for Permanent Injunction against enforcement. Copies to cnsl.
July 6 395 MOTION — pltfs for award of Costs and Attys Fees, and notice of mot. noted for July 27, 1979.
396 BRIEF — in support of.
397 AFFIDAVIT — of Camden Hall in support of.
398 AFFIDAVIT — of Michael W. Hoge.
399 AFFIDAVIT — of Elvin J. Vandeberg.
400 STMT. OF COSTS — & Disbursements to be taxed against defts.
July 10 405 MOTION — Intervenor Sea. Urban League for award of atty Fee's.

406 AFFIDAVIT — of Wm. Neukom in support of. & Notice noted for 7-27-79.
AFFIDAVIT — of mailing.

July 12 408 MOTION — Sea. Interv. Pltfs (except Sea. Urban League) for award of atty fees.

409 AFFIDAVIT — of Frederick L. Noland in support of.

411 MOTION — Pasco Intven. Pltfs motion for Atty Fees.

414 MOTION — Interv. Deft CIVIC for entry of add. Findings of Fact and notice of motion noted for July 27, 1979.

July 20 415 MEMORANDUM — of Intervenor Deft CIVIC et al Re: Award of Atty Fees.

416 MOTION — supplemental of Tacoma School District for award of costs and atty fees, with notice noted for July 27, 1979.

417 AFFIDAVIT — of Elvin J. Vandeberg in support of.

Aug. 17 429 BRIEF — Sea. Intervenor Pltfs in support of Atty fee's & costs.

431 MEMORANDUM — of Pasco Interv. pltfs in support of atty fee's & costs.

432 BRIEF — of U.S. in support of pltfs mot. Re: Atty Fee's & Costs.

433 BRIEF — St. defts Re: Atty fees and Costs.

434 AFFIDAVIT — of Joseph Taller.

435 AFFIDAVIT — of Maynard Mathison.

Aug. 18 436 AFFIDAVIT — (supplemental) of Wm. Neukom in support of Interv. Seattle Urban League for Atty fee's & costs.

437 BRIEF — of Sea. Urban League's mot. for atty fees & costs.

Aug. 24 Ent. Hearing on atty fee's had. Court Denies CIVIC's motion for additional Findings of Fact and DENIES motion

for atty fees. Court will prepare formal order on rulings.

Aug. 29 439 ORDER — Denying deft. Int. CIVIC's motion that the Court make add-findings of fact and DENYING motions of pltfs & pltf intervenors for atty fee's and costs. Copy to cnsl.

440 DECLARATORY JUDGMENT — Court findings that Int. 350 is unconstitutional and Permanent Injunction granted against enforcement. Copy to all cnsl.

Aug. 31 441 TRANSCRIPT OF THE COURTS ORAL RULING — before Judge Voorhees Fri. Aug. 24, 1979.

Sep. 15 442 TRANSCRIPTS OF PROCEEDINGS — before Judge Voorhees, Vern Sorensen Court Reporter, Vol. I, Apr. 23, 1979, (443) Vol. II of Apr. 24, 1979, (444) Vol. III of Apr. 25, 1979, (445) Vol. IV of Apr. 26, 1979, (446) Vol. V of Apr. 27, 1979, (447) Vol. VI of Apr. 30, 1979, (448) Vol. VII of May 1, 1979, (449) Vol. VIII of May 10, 1979, (450) Vol. IX of May 11, 1979.

Sep. 19 451 NOTICE OF APPEAL — deft State of Washington. Copy to C of A. Ent. Notice of pmt of dckt fee, and certificate of record sent to C of A.

Sep. 24 452 NOTICE OF APPEAL — intervenor defendants C.I.V.I.C. Copy to C/A. Notice of payment of docket fee mld C/A.

Sep. 28 453 NOTICE OF APPEAL — pltfs Sea. School District Copy to C of A & notice of pmt of docket fee.

Oct. 17 454 NOTICE OF APPEAL — Seattle Intervenor pltfs.

455 NOTICE OF APPEAL — East Pasco Neighborhood Council et al.

456 AFFID. — of service.

DECLARATORY JUDGMENT AND PERMANENT INJUNCTION (Clerk's Records 440)

This matter came on for trial before the undersigned judge of the above-entitled court. The issues have been duly tried and a decision has been duly rendered.

It is therefore ORDERED and ADJUDGED:

1. **Declaratory Judgment.** Initiative 350 is declared unconstitutional in that it denies equal protection of the laws to racial minorities in contravention of the Fourteenth Amendment to the United States Constitution in the following respects:

(a) It creates an impermissible racial classification by forbidding mandatory student assignments for racial reasons while permitting such assignments for purposes unrelated to race. No compelling state interest justifies that racial classification.

(b) A racially discriminatory intent or purpose was one of the factors which motivated the adoption of the initiative.

(c) It is overly inclusive in that it prohibits a school district from implementing a mandatory student assignment program even though the school district may be under a constitutional duty to eliminate segregation.

2. **Permanent Injunction.** Because Initiative 350 is violative of the United States Constitution, defendants The State of Washington; Dixy Lee Ray, Governor of the State of Washington; John Bagnariol, Duane L. Berentson and John A. Cherberg, as principal officers of the legislative authority of the State of Washington; Slade Gorton, Attorney General of the State of Washington; Frank B. Brouillet, Washington State Superintendent of Public Instruction; H. Eugene Hall, Levy S. Johnston, Jack L. Reid, Edward Diamond, Mark E. Hoehne, Roger H. Lincoln, Walter H. Lewis, James M. Spalding, Ollie Mae Wilson, Orville Barnes, Grant L. Anderson, Eileen B. Kalles, Philip B. Swain, and Robert B. Stookey, each as members of the Washington State Board of Education; in-

tervenor defendants Citizens for Voluntary Integration Committee (Ci.V.I.C.), Peter King, Sandra King, Rodney Dahley, Gwen Dahley, Thomas Bates, Phoebe Bates, Robert Liddell, Jr., Paulette Liddell, George King and Sally King; and all persons acting under, in concert with, for or on behalf of the defendants, including their instrumentalities, agents or employees, are permanently enjoined from engaging in, committing or performing or causing to be done, directly or indirectly, any acts which implement, enforce or attempt to implement or enforce the provisions of Initiative Measure No. 350 offered to and voted upon by the people of the State of Washington on November 7, 1978 which, *inter alia*, purported to prohibit public educational authorities in the State of Washington from assigning students to other than their nearest or next nearest school — with limited exceptions.

3. **Costs and Attorneys Fees.** This court reserves jurisdiction to tax and apportion the costs and attorneys fees in this matter by subsequent order.

DATED this 29th day of August, 1979.

/s/_____
Donald S. Voorhees
UNITED STATES DISTRICT JUDGE

EXCERPTS FROM TESTIMONY OF CHERYL BLEAKNEY
(Tr., pp. 81-95)

* * *

Q. Mrs. Bleakney, would you define for us segregation?
A. It is defined — I refer to the definition that the School District uses, and uses the words racial imbalance rather than segregation.

To my way of thinking, segregation means the isolation of minority children in particular, because that's what the courts concerned themselves with within a school system.

Q. In other words, you do equate segregation with racial isolation in the context of schools?

A. Yes, sir.

Q. Let's go through that Seattle School District formula, this definition.

As you earlier testified, the definition of racial imbalance that the School District has adopted is that, when the combined minority population of any school, any individual school, exceeds by greater than 20% the district wide average combined minority population, that that school is racially imbalanced?

A. That's right. You said it better than I did.

Q. Is that school isolated in all cases?

THE COURT: Do you understand the question?

THE WITNESS: I am not sure I do.

THE COURT: I am afraid I don't understand the question.

Q. (By Mr. Murphy) Let's take the assumption you expressed. You gave as a definition the application of that formula that, if the district-wide average combined minority population was 25%, that a school with 45% minority population would be racially imbalanced, according to the School District's definition.

Would students, the minority students, in the school which is 55% white, be isolated from the white community?

A. Not within that context, Mr. Murphy. I think part of what we are working with is a legal context and an educational context, and a moral one. The School District has not attempted to define majority isolation. I believe it exists and I think it probably is detrimental for white children; but it has not become a legal issue, and therefore we haven't addressed it.

Q. I still didn't hear an exact answer to my question. Would a minority student in a school in which 55% of the population was white be isolated from the white community, from a white school?

A. I believe I said I don't think so, in that context; but, I think, in a legal context, it could well be so.

MR. MURPHY: Let's let Judge Voorhees handle the legal context, okay?

MR. HALL: I object to his cutting off the answer.

THE COURT: I don't think he cut off the answer. I think he commented upon it. I will ask you not to comment upon it.

MR. MURPHY: The next time I will move to strike it.

Q. Now, that isn't the case in Seattle; the combined minority population is greater than 25%.

A. That's correct.

Q. I think you testified it was approximately 37 percent?

A. This year.

Q. And that is close enough to the actual figure for our purposes here?

A. (Witness nods head.)

Q. Under the Seattle formula, then, when any school reaches 57 percent combined minority population, that school is a segregated school under the Seattle definition, isn't it?

A. That is correct.

Q. And, again, in rough terms, that still means that the minority student in that school gets to associate — every school today, you know — of ten students that a minority student gets to associate with in that school every day, four of those students are white, a little better than four actually, isn't that right?

A. Yes, by our figures.

Q. Do you believe that that minority student, 40 percent plus of the students he associates with every day are white — do you believe that minority student is isolated from the white community?

A. I think he can be, and I think there has to be a sense of equity, and a representation of the total community within that school. Without some numerical figure, I don't know what — at what point you decide a child is isolated.

Q. Well, you have decided for the school, for the students

of the school district, haven't you, at what point that child becomes isolated?

A. That is correct.

Q. Are you calling into question the Board's own judgment now?

A. No, but as I think I said, originally when we made the decision it was based on legal considerations and educational considerations.

Q. What were those legal considerations?

A. We had a good deal of advice from our attorney as to what H.E.W. would accept, what the courts would have used, what has been traditional throughout the United States on what has constituted an acceptable level for desegregation. Some courts have insisted that the student body in every school reflect the precise proportion of minority students that exist in the district. This, to us, was not acceptable.

We were particularly concerned about the numbers of minority races that we had and scattering them throughout the city, so they had no racial identity.

We admittedly struck a compromise, which was based on having to have something that would, in the opinion of our attorneys, and in our opinion, satisfy legal requirements, and it would also satisfy our need to protect our different ethnic groups and the children in our school district.

Q. In the legal requirements that you were attempting to satisfy, the legal entanglement that you were attempting to avoid, were entanglements from direction of the federal government or private individuals or interest groups here in the Seattle area, were they not?

A. Could you rephrase that, Mr. Murphy?

Q. You were afraid you were going to be sued?

A. Yes.

Q. You were threatened with suit, in fact?

A. Yes.

Q. The suit was coming either from the United States or

from private groups, the Seattle Urban League, the N.A.A.C.P., et cetera, isn't that right?

A. Yes.

Q. So, that you adopted a plan and adopted a formula, a definition of the racial imbalance or racial desegregation, which was designed to avoid that lawsuit?

A. It was designed to withstand a lawsuit in case we were hauled into court.

Q. And the reason it was designed or reason it was chosen with a view in mind that it would withstand any lawsuit was because it was an acceptable formula and an acceptable definition of racial imbalance by one of the prospective plaintiffs in that suit against you, wasn't it?

A. I am afraid you would have to explain that question. I don't —

Q. Let's step back a little bit. You earlier testified on direct examination that the School District adopted its own formula?

A. Yes, sir.

Q. Didn't, in fact, the School District adopt H.E.W.'s Office of Civil Rights formula?

A. No, sir. I participated and was chairman of the desegregation committee that met and tried to develop a proposal, which included myself, Mrs. Hollingsworth, and Mrs. Hittman. We met with legal counsel. We had a number of proposals of other Board members, from Dr. Moberly, as I recall, and from the district wise Advisory Commission. We looked at all of them and from this came out with what was essentially a compromise, which our attorneys advised us probably — not with any certainty — could withstand objections of H.E.W. or a court test.

The imposition of 50 percent of the single minority requirement in that definition came out of our committee and had been used by a prior board. There was a discussion at the Board meeting that day, we adopted the definition, and I believe a motion which would have tagged it to the district level, plus 25

percent, I believe. It was certainly not a foregone conclusion what that definition would be. I believe that vote lost by a three or four margin.

Q. I think what you just said is that there are quite a variety of views of what constitutes segregation and how to go about —

A. That's correct.

Q. And what constitutes integration in this country? The School District chose one of them, you will agree with that, won't you? Of educators and educational administrators, both in government agencies and in non school district government agencies and in the schools themselves, there are widely varying views as to what constitutes segregation?

A. Indeed there seems to be no definitive court rulings.

Q. As a matter of fact, you have been advised by the School District attorneys that the United States Supreme Court has never been able to adopt a numerical standard, has it?

A. That's correct.

Q. Was it ever called to your attention, Mrs. Bleakney by the District's attorneys, prior to your — I am excluding from the definition the formula, Seattle plan formula, for purposes of our plan here, the added factor of no greater than 50 percent of a single minority — was it ever brought to your attention by the School District attorneys that with respect to the 20 percent over the average district-wide combined minority population that that was, in fact, the Title 6 compliance standard in H.E.W.'s Office of Civil Rights proposed 1977 operating plan?

A. Not to my knowledge, it was not. And again I am trying to recollect events which were moving pretty fast. My recollection was that our attorneys advised us that the courts had accepted varying interpretations and probably that was the maximum number that any court would accept in the area of flexibility, and I may be wrong. We may have been advised about H.E.W.'s guidelines. I just don't recall.

Q. Do you recall being advised — when you said that that 20 percent was the maximum that a court was likely to accept, do you recall being advised that the Omaha School District used the plus or minus 15 percent?

MR. • HALL: Your Honor, maybe this is relevant, but I am not exactly sure what this quibbling as to the level of segregation is about. The fact of the matter is, the State Board of Education has adopted, in effect, what the Seattle School Board has adopted. The School Board has adopted something. The Court can make its own determination of what is segregation and what is not, but if we are going to roam about the United States and get all these divergent views, I don't know if it is very productive. I suggest it is really not relevant.

THE COURT: I am going to overrule the objection. You go ahead.

MR. MURPHY: It is the absolute guts of the lawsuit.

A. (By the witness) In going back to your question about Omaha, I had looked at the Omaha plan and did not even remember what the percentage was, but 15 percent about the district average was considered by our committee and by the Board. We also considered a varying scale. There was a number of options looked at.

Q. (By Mr. Murphy) But you were aware that there was, at least, one area in the country where less than 20 percent — less than 20 percent in excess of the formula was acceptable?

A. I think what I said, Mr. Murphy, was that 20 percent above was the maximum and I think we were looking for something that gave us the greatest flexibility possible, so that I think we were aware of the 15 percent.

Q. But you don't recall, as you sit here now, being advised that the United States Government, for Title 6 compliance purposes, was going to propose the 20 percent plus formula?

THE COURT: Ms. Green?

MS. GREEN: Your Honor, I am going to object to the repeated use of the United States Government as an exact standard of what constitutes racial desegregation.

THE COURT: I am going to overrule the objection. I think the witness has already stated that she may have been told that, but she doesn't now recall. Is that what you said?

THE WITNESS: Yes, that is correct.

MR. MURPHY: We can establish that independently.

THE COURT: That would be fine.

Q. (By Mr. Murphy) Just for the record, would you indicate to His Honor what Title 6 compliance means, what you and I are discussing in that area?

A. You wish to have me —

Q. I can do it for you, if you like. Just in general terms, what is Title 6?

A. It is equal rights aspects of the Equal Rights Amendment regarding race. Don't ask me to do the legal terms here.

Q. I think that you will be able to answer this. When H.E.W. finds a school district not in compliance with Title 6, the result is that you lose your federal funding, isn't it?

A. You go through a hearing which can involve losing your federal funding.

Q. If you lose the hearing and they find you aren't in compliance, and then if you lose the lawsuit, then the government is entitled to withhold those funds, isn't it?

A. Correct.

Q. And that was one of the uppermost concerns in the mind of the School Board, wasn't it?

A. I don't think so. I think it was — one of the concerns was the loss of federal funds. We felt — and, in fact, as was explained when we went out to the public, that there were concerns, educational, financial and legal. By the legal — the financial, we meant in large part the

possible loss of federal funds. The legal meant that we, even though we gave up our federal funds, we still could find ourselves in court as a result of findings of the O.C.R., and having to defend ourselves against the charges of deliberate segregation and possible take-over by a court. So, it was not just the loss of federal funds. We had, in fact, one Board member who had suggested at one point we should put an avid amount of money on the special levy to compensate for possible loss of federal funds in complying with desegregation goals.

Q. But that certainly was a serious concern of the School Board's, wasn't it?

A. Yes, it was, and as I said, I don't think it was the major one. I think the overriding one was the consequences of possible court action.

Q. But the formula the School Board chose was the formula that was designed to most likely insulate the School District from losing federal funds because of non compliance with Title 6 of the Civil Rights Act?

MR. HALL: I object. She has answered this question twice.

THE COURT: I think she has. I will sustain the objection.

Q. (By Mr. Murphy) If I could refer you to page nine of your written testimony, Mrs. Bleakney.

THE COURT: Would you refer her to the line.

Q. (By Mr. Murphy) Do you have the page?

A. Yes.

Q. Well, beginning on line 11, and even though you are talking there about the threat of lawsuits that the School District received — on line 15, you say that the N.A.A.C.P. charges, the complaint filed with H.E.W., are alleged acts of intentional segregation by the District?

A. Yes.

Q. Do you agree with that complaint? Did you think the School District was guilty of intentional or what we call de jure segregation?

MR. HALL: Your Honor, I object. This is not relevant to this phase. It gets into the de jure segregation.

THE COURT: Yes, I am going to sustain the objection.

EXCERPTS FROM TESTIMONY
OF EUGENE TONE
(Tr., pp. 375-377, 386, 387, 391)

A. Our definition is that any school that is more than 40% of one minority, or fifty per cent combined total minority, would be segregated.

Q. And what is the combined minority enrollment for the school district by percentage of student enrollment?

A. 20.7, as of last October.

Q. And, using the definition of segregated school, or racially-imbalanced school, at the present time, are there any schools within the Tacoma School District that are segregated or racially imbalanced?

A. There are none.

Q. Could you give us the essentials of the desegregation plan in effect in Tacoma at the present time?

A. Okay. We have established magnet programs in those central elementary schools that are heavily impacted with minority population.

We control enrollment into those schools by application, and we do conduct an on-going and systematic counseling effort throughout the school district.

Q. Now, the counseling effort is for what purpose?

A. That is to create an awareness throughout the district of the opportunities that are available to those students; whether they are being informed of those magnet programs in the central area. Or on the other hand, whether they are looking at transferring students anywhere within the school district.

Q. Out of the central area?

A. Out of the central area, right.

Q. The names of those two elementary schools are McTarver and Stanley; is that right?

A. That's correct.
Q. What function does bussing play in the desegregation program?
A. It is a very effective tool, or vehicle, I should say, in getting people from one point to another. And it has been used, I think, very effectively and successfully in Tacoma by providing convenient and efficient transportation, sometimes within a block or two of a child's home. In fact, that is the rule, I should say, within a block or two.
Q. You did not operate a bus system — the school district does not operate its own bus system, does it?
A. No, it is Tacoma Transit.
Q. And the students are provided passes for utilizing that system?
A. That's correct.
Q. With reference to the balance of the school district, other than McTarver and Stanley, what is the plan for enrollment at the various schools?
A. Well, we have optional enrollment district wide, which permits students to select any school in the school district if in fact space is available and it will not in any way disrupt the requirements of racial balance or desegregation.
Q. Would you please examine Exhibit Number 99, which you have been provided?

Do you recognize that as the written statement of the testimony that you prepared for this trial?
A. Yes, I do.
Q. And, to your knowledge, are the statements made therein true?
A. Yes, to my knowledge.
Q. And the opinions that are expressed therein are also your opinions are they not?
A. That's correct.
Q. Exhibit T-1 through T-15 to the exhibit are copies of resolutions from the board of directors, true and correct copies of the resolutions of * * *
Q. I would like to turn to another aspect of the computer

project, and the Tacoma School District's segregation program generally.

I believe your statement makes it clear that the Tacoma School District has worked in recent years, at least, on a goal of having no school with more than 50 percent minority population, is that a fair statement?

A. That's true.

Q. Now, in November of last year — I believe in November, perhaps it was in October — the State Board of Education established a new guideline, so to speak, for determining racial imbalance. Do you know what that guideline was?

A. Yes.

Q. What was it?

A. Well, I know in part what it is. It did state that when the combined total enrollment of a school district — whatever that minority enrollment is, you can add — you took the district average, the combined total minority enrollment, and then you add whatever your district enrollment is to that.

For example, if we had an average district enrollment of — I said, what, 20.7 percent. That means that we could add 20 percent to that and that would then determine whether a school was segregated or not segregated; I guess on that basis.

THE COURT: That would be, then, 20 percent more than the average minority enrollment of your particular district?

THE WITNESS: The combined minority enrollment, right. * * *

Q. And that is the basis on which you make that conjecture?

A. Yes, I think — yes. I would think that over the years — I think that we have had that kind of unique relationship with our community.

Q. I can't recall exactly where it is in your statement, however, but it seems to me that you acknowledge that most of the people with whom you come in contact in your work, most of those parents favor neighborhood

schools?

A. That is true.

Q. That is true?

A. I would say 95 percent; 90, 95 percent.

Q. And Initiative 350, as I recall, passed in the City of Tacoma, did it not?

A. Yes.

EXCERPTS FROM TESTIMONY
OF DAN R. HIXENBAUGH
(Tr., pp. 495-498, 505, 506, 509-511)

* * * Someone in the agency realized that chess is basically a game of color, and part of our guideline and direction was to completely avoid any such issue and it was discussed in the agency that that was sort of a minor point, but in chess being a game of color — as that was a directive, the idea of the concept was never presented for consideration.

Q. Turning to a document that has been marked as Exhibit A-117.

A. Yes.

Q. Does that appear also to be part of your deposition which Mr. Hall took of you and which he questioned you about?

A. It does.

Q. Turning to page 42 of that, Mr. Hixenbaugh, please, at line 8 — excuse me, 16. Could you read us your answer to Mr. Hall's question there?

The question was: "Do you recall any instructions from your client concerning any issue or approaches to advertising in the promotion of Initiative 350, which your client said should be avoided," and your answer, please?

A. "In our meeting, I think, the crux of what we were working towards is, we wanted to make sure the focus stayed on the dollar issues, stayed on the use of tax dollars, stayed focused on children and neighborhood schools, and what CiVIC considered to be the problem of bussing, and that we did not do something to turn it

really into a whole racial question of focus on that. That wasn't really considered relevant or really useful as an approach."

Q. Turning to page 46, Mr. Hixenbaugh, please, Mr. Hall asked you a question which started at the bottom of page 45, which was "In the discussion that you participated in, what was the reason for the feeling that the name" — we are referring to the name of CiVIC — "that the name had elements of undesirability. Why did you feel the name was inappropriate, if that is a fair conclusion?"

Did you feel that was inappropriate and would you give us your answer, please?

THE COURT: Let me go back a little bit further. I guess the question on page 44 was — and this is by Mr. Hall, I believe, is that right?

MR. OLIVER: Mr. Hall's question, Your Honor, starts at line 25 on page 44, and then the answer starts at line 5.

THE COURT: That question doesn't tell what the name is. Going back to page 44, the question is: "Did you ever discuss" — the previous question: "Do you know what the letters CiVIC mean?

"A. Citizens for Voluntary Integration Committee.

"Q. Did you ever discuss that with any representatives of CiVIC, the content of its name and the wisdom of the word integration in its name?"

Then, let's skip ahead to the question you are asking about.

MR. OLIVER: I tried to interpose what I was talking about.

THE COURT: Then we are going to page 45, line 20, is that correct?

MR. OLIVER: Forty-six, line 5.

Q. (By Mr. Oliver) Do you find that, Mr. Hixenbaugh?

THE COURT: And the question before that, immediately before that, was: "Why did you feel the name was inappropriate, if that is a fair conclusion.

Did you feel that it was inappropriate?" And then your answer.

A. (By the witness) The response here is — it seems to me there was a wide range of reasons. Just from the sound of it, just from the whole context, even as a name CiVIC, I don't think we agreed with. Focusing on voluntary integration we didn't think was the real focus of what we were doing or trying to do. It was sort of a misnomer. It brought up points that we were not addressing and that was confusing and we thought it was probably the only point in the whole thing that really came down to racial overtones, which is what we were really trying to avoid, and as a result, probably would hurt some of the support we were looking for by getting people or forcing people to misunderstand really what we were trying to do.

Q. Did initially CiVIC intend to — well, strike that. What was your initial proposal to CiVIC in terms of the campaign, the specifics; what you suggested to them to do in terms of where to put ads, what sort of ads?

A. That is sort of a broad question. Can you —

Q. Was the intent initially to campaign state-wide?

A. Yes, it was.

Q. Was it intended to campaign on TV state-wide?

A. Yes, it was.

Q. On the radio state-wide?

A. Yes.

Q. Newspaper state-wide?

* * *

REDIRECT EXAMINATION

BY MR. HALL:

Q. Isn't your job as an advertising person to package a product so that the people in the market to which your advertising is addressed will buy that product?

A. Yes, that's true.

Q. And isn't that what you were doing with regard to Initiative 350; trying to package it in such a fashion that the voting public would buy it?

A. That's true.

Q. And isn't that what you understood Exhibit A-30, the letter from Mrs. Jellen, to be telling you; to package this product in such a fashion as to present it so that people would buy it?

A. Along with the understanding for the agency to recommend how to package a product, you have to first understand what the product is.

The letter could really be Mrs. Jellen's idea of exactly what the issue is, and how they perceive it in defining the package to the agency.

I would say this is really the parameters of the beginning situation of how we start.

Q. This letter is dated February 16, 1978?

A. Yes.

Q. Was there even an initiative at that point? Do you know?

A. No, there was. The beginning of — it was beginning to pull together. This is why I say, this is not defining it.

Q. Was there a campaign at that time, in February of 1978, against the initiative, to your knowledge?

* * *

included about failure of bussing to desegregate. Did you have an understanding, or do you have an understanding of the significance of that construction?

A. I can see it here, at its face value.

Q. The next line talks about mandatory bussing fails to slow the flight of families. Do you have an understanding with regard to what that meant?

A. I do understand the sentence, yes.

Q. How does that relate to the Initiative 350 campaign?

A. I think it's an overview of the parameters of exactly what CiVIC is involved in. That is one of the details of.

Q. Two lines further down, it says, "I can't stress too much the necessity of avoiding any reference whatever to race." Do you see that reference?

A. I do.

Q. Do you have any idea why the issue of race was emphasized so much as something that should not be

included in the initiative campaign?

A. Yes. It should not be included in that, because it was not one of the points we were trying to stress, and would lose support.

Q. Would you say that you never stressed the issue of race in your advertising campaign?

A. Yes, I would.

Q. At the bottom of the page, Mrs. Jellen suggests: "Rather than 'mandatory bussing accelerates white flight from the city'," she said: "We can say 'passage of the initiative will give students options and help guarantee the high quality of education needed to keep families in the city.' "

Did you understand her suggestion to be a synonym or a code for the first, that is to say, in saying passage of the initiative will give students options, etc., it really means mandatory bussing accelerates white flight from the city?

THE COURT: I don't think it makes any difference how he interprets it. If it's relevant, it is for me to decide what the meaning is.

Q. (By Mr. Hall) You said, in your testimony, that references to race were not useful. I believe you used the words, "not useful"?

A. References to race were inappropriate.

Q. Do you recall using the words, "not useful"?

A. I suppose it's in the deposition.

Q. No, in your testimony today.

A. Okay.

Q. What do you mean by "not useful"? Useful for what?

A. Useful in gaining support for CiVIC.

Q. For CiVIC, or for the initiative?

A. For the initiative.

Q. When you said you were not to focus on race, and you talked about chess being a game of color, and children being used as pawns, in what way were children being used as pawns?

A. We felt that the whole point of bussing was not — the

emphasis of it was not on the quality of education and maintaining neighborhood schools for children, but was being surpassed for political issues, and we wanted to bring the whole issue of Initiative 350 down to the children, and quality education, and maintaining neighborhood schools.

Q. What political issues?

A. The other side of bussing the Seattle Plan.

Q. Desegregation?

A. Yes.

EXCERPTS FROM TESTIMONY
OF RICHARD SCHROCK
(Tr., pp. 526, 527, 538)

* * *

A. In general, I serve as a media consultant to a campaign committee, offering the campaign direction and at times coordination in its efforts to communicate through the mass media, be it through paid advertising, political advertising, or in its relationships with the news media.

Q. What is the purpose of — what ends are you trying to achieve in offering a client advice on how to approach the media problems surrounding a campaign?

A. I am simply trying to achieve voter approval or the required majority voter approval of a particular ballot issue.

Q. And in achieving voter approval, I take it your advice is offered in order to elicit positive voter response and avoid negative voter response?

A. Generally that's the case.

Q. Has your experience in this field, in the many campaigns you have been involved in since 1968, given you an ability to assess voter responses to certain controversial issues and hopefully predict ways to elicit that positive response?

A. Well, I would hope that might be the reason clients come to me, in that I have been in the field for a

number of years, and my opinions are based upon experience in the field.

We use fairly sophisticated techniques in trying to assess what voter attitudes are, as well as operating off of professional opinion.

Q. Is one of the reasons that clients keep coming back to you, is that your campaigns seem to be successful?

A. I hope so.

Q. Mr. Schrock, based on your general experience in the political campaign areas since 1968, and based on your experience with the issues surrounding Initiative 350, if you designed a campaign to appeal to racial motivation or segregative motivation of voters, wouldn't that campaign be successful in your opinion, in the State of Washington?

A. Not in the State of Washington.

MR. MURPHY: Thank you. That's all I have, Your Honor.

* * *

many of the sponsors of Initiative 350 were black. Indeed, wasn't the issue the fact that initiative 350 was multi-racial and multi-ethnic emphasized in their membership efforts?

A. You mean of CiVIC's membership efforts? CiVIC was interested in getting the broadest base coalition of people in this state to support this initiative, be they of any race, color or creed. We were interested in getting a good cross-section of the electorate, as a citizen's committee sponsoring the initiative, but we did not concentrate on any one particular ingredient, ethnically or racially, or anything else. We just went for across-the-board coalition.

Q. Why was CiVIC so interested in race?

A. I don't think CiVIC was that interested in race, since it was determined, I think by myself and concurred in by the CiVIC group that this issue would not be won or lost based on racial determinations of one sort or another.

If the issue of race arose, it usually came from outside of CiVIC. It usually came from the press, or from the opponents of the initiative.

EXCERPTS FROM THE TESTIMONY OF DR. JAY CHILDERS
(Tr., pp. 597-602, 604, 605, 612-641)

* * *

DIRECT EXAMINATION

BY MR. HALL:

Q. Dr. Childers, would you please give, for the record, your full name and spell your last name?
A. H. Jay Childers, C-h-i-l-d-e-r-s.
Q. And is the J in your name spelled out, J-a-y?
A. Correct.
Q. What is your residence address?
A. 4700 West Livingston, Pasco, Washington.
Q. By whom are you currently employed?
A. The Pasco School District.
Q. In what capacity?
A. Superintendent of Schools.
Q. How long have you had that position in Pasco?
A. I am just completing the 6th year in that position.
Q. Just a thumbnail sketch, what are the principal duties or responsibilities of the School Superintendent of Pasco?
A. The Superintendent is the chief executive officer of the School District, interpreting and implementing the policies established by the Board of Directors, and being responsible for the general conduct of the School District.
Q. Have you had an opportunity to review Exhibit 97, the document, the blue book to your left?
A. Yes, I have.
Q. And are the statements in that exhibit, to the best of your knowledge, true and accurate? * * *
Q. (By Mr. Hall) Do you incorporate the sentiments and

statements in Exhibit 97 as your testimony in these proceedings?

A. I do.

Q. Would you summarize for us, please, the situation — well, I call your attention to Exhibit 98. This might help in the summary. Can you identify what Exhibit 98 is?

A. Exhibit 98 is a map of the general area of Pasco; general area meaning specifically the city of Pasco, and contiguous suburban areas that apparently involve our elementary school service areas.

It identifies the general traffic, service boundaries, and the individual elementary schools.

Q. I notice that there are some red lines on the exhibit. What are those demonstrating?

A. Those are elementary school service boundaries.

Q. I notice in about the right-hand third of the exhibit there are some hatch marks, green cross marks, across the blue print line.

What do those green cross marks indicate?

A. That indicates a series of railroad tracks, probably eight or ten in number, which makes that area of town unaccessible except by one or two instances.

Q. I take it, as the Superintendent of Schools in Pasco, you are familiar with generally the locations of the city where people live?

A. I believe so. * * *

Q. In your statement, at page 3 of Exhibit 39, you describe the racial composition of your school district and divide the district into five categories, black, Asian, Native American, Hispanic, and Caucasian. With reference to the map of Pasco, Exhibit 96 —

A. Ninety-eight?

Q. Ninety-eight. Could you roughly describe, if this is susceptible to description, where a preponderance of the black, Asian, Native American, and Hispanic students in your district live?

A. All right. Beginning at the right-hand side of the map indicating the east area, all of the area east of the green

hatch marks is generally designated as East Pasco. The population in that area is somewhere between 92 and 97 percent minority. That is mixture of both black and Mexican American, highly transient kinds of people.

The next area moving west is the general service area of Captain Gray and Longfellow, particularly of a high incidence of residents who are minorities.

Generally speaking, then, as I think you have the data on minority enrollment by school, you will note that the minority enrollment as a percentage decreases as you go west in the school district. The four schools having the highest percentage of minority enrollment are those schools nearest the east end of the school district, Longfellow, Captain Gray, Emerson, and Robert Frost.

Q. Does the school district in Pasco have a plan which they are currently operating to seek the desegregation of its schools?

A. Yes, we do.

Q. Could you describe briefly what that plan is and how it works, perhaps with reference to the map, Exhibit 98, if that would be helpful?

A. The plan we first have — and maybe I ought to identify, in terms of definitions, it is a voluntary plan, in the sense that on the part of the district as a whole, it was adopted voluntarily and not as a result of court order.

The assignment of youngsters to schools is mandatory in the sense that a number of the youngsters — when we have a disproportionate balance in enrollment, we mandatorily assign youngsters.

I could give you a specific example of our eastern — western most elementary school, Livingston, which was opened this fall. We first went out and sought, through our home advisers, home liaison people, minorities that would voluntarily enroll in that new school. There are virtually no minority people who live in that school service area.

We did not get enough youngsters to result in a

respectable percentage of minority enrollment, and then we began to establish regulations which mandated that certain youngsters, minority youngsters would attend that school.

For example, we established that any kindergarten youngsters new to and who lived in East Pasco would automatically be enrolled at Livingston Elementary, clear out in West Pasco.

These, generally, then, in an effort to balance our minority enrollment throughout the district, are the kinds of tactics we used.

Much of the enrollment of minorities in the various schools is now voluntary, but initially, three or four years ago, when the older brothers and sisters of those youngsters began to go there in that school, they were mandated they would go there and develop a loyalty and it continues on.

So, trying to be very precise about our desegregation plan is difficult. It is an evolutionary type of process.

* * *

Q. Have you, as superintendent of your school district, reviewed the language of Initiative 350?

A. Yes, I have.

Q. And have you tried to come to some understanding, perhaps tentative, but nonetheless, some understanding as to what it means and what its application to Pasco would require?

A. To my best interpretation, it would appear to me that there is no provision for the Pasco School District being excepted from the effects of Initiative 350. Therefore, it would require our compliance.

Our compliance with Initiative 350, in my judgment, would result in, at least, those three easternmost elementary schools, Longfellow, Emerson, and Captain Gray having a minority enrollment exceeding 50 percent. This violates, then, regulations of the U.S. Office of Civil Rights, and it would further appear that there would be a good possibility that the Robert Frost

Elementary would also exceed the 50 percent enrollment.

Q. At the present time, they do not exceed 50 percent enrollment?

A. Longfellow Elementary is right at — about a student or two below 50 percent. The rest of them are somewhat lower.

Q. How long has Pasco had this desegregation plan which you described a few moments ago?

A. The plan first began in 1965.

Q. Prior to your tenure as superintendent?

A. Correct.

MR. HALL: Your Honor, we offer Exhibits 97 and 98.

CROSS-EXAMINATION

BY MR. BAETZ:

Q. Dr. Childers, with respect to Exhibit 98, the copy that I have, at least, does not appear to have a boundary line for the East Pasco area indicating, I believe, on the basis of your testimony, that it was not an elementary school service area.

Is my copy, or the copy I was looking at, simply mismarked, or is East Pasco not even in an elementary school service area?

A. That's correct, it is not located in an elementary school service area, and enrollment in that area is open.

Q. Basically that means that children from what otherwise might be a service area, are the ones that are bussed out?

A. That's correct.

Q. And distributed to the other schools in the Pasco system?

A. Yes.

THE COURT: I did not want to ask this question. You spoke about the children going to different areas. Are they bussed, or is the city or town — the city — small enough that they can walk to the various schools.

THE WITNESS: They are bussed.
THE COURT: They are bussed?
THE WITNESS: Yes.

Q. (By Mr. Baetz) And the students who are transported under this program are primarily members of a minority race or races, is that correct?

A. That's correct, insofar as the desegregation aspects are concerned. We transport and transfer other youngsters to effect classroom load balances, and this sort of thing.

Q. Has there been elementary school construction in Pasco since you arrived in 1973?

A. Yes.

Q. And is that the Livingston School that is shown at the far left, or the west side of Exhibit Number 98?

A. Yes.

Q. Is that the only elementary school that's been constructed since you arrived?

A. That is correct.

Q. Was that construction done in recognition of the fact that there was a student desegregation transportation program being carried out in Pasco?

A. Would you repeat the question, please?

Q. Was that construction of that school at its location done in recognition of the fact that there was a student transportation program, desegregation program, being carried out in Pasco?

A. Yes.

Q. So the newest school, that is, the Livingston School, was located at least in part with this 14-year-old desegregation program in mind?

A. Yes.

Q. It appears from the map, at least, Exhibit Number 98, that the Pasco School District has not located any new elementary schools in the neighborhoods where low income housing has been constructed.

Is that an accurate reading, or where low income housing exists?

Is that an accurate reading of Exhibit Number 98?

A. No. In the sense that there is low-income housing on

both sides of the railroad track, that is, in East Pasco, and in the eastern part of Pasco on the west side of the railroad tracks.

There are schools being served in that low income housing area, but that's not true in east Pasco.

Q. I understand that. In any case, there have not been any schools, new elementary schools, located in the east Pasco area?

A. That's correct.

Q. Now, on page 9 of Exhibit Number 97, there is a statement.

Do you have that document in front of you? Would you turn to page 9, please?

There is a statement — could I see yours for a second?

There is a statement under the paragraph headed 7, which states: "The selection of new school sites in Pasco School District — " strike that.

Four lines down, in paragraph 7, it says: "The newest elementary schools are in the neighborhoods where low-income housing has been constructed."

Is that an accurate statement?

A. No, it is not.

Q. Is it correct, Dr. Childers, that there have been no studies to your knowledge of where the newest schools would have been built, or should have been built, had there not been a student transportation program in effect in Psaco?

MR. HALL: Your Honor —

THE COURT: Yes.

MR. HALL: Does this relate to phase I of these proceedings, or phase II?

THE COURT: I am wondering about that myself.

MR. BAETZ: Your Honor, one of the portions of phase I, as I understand it, at least, is the effect — not whether there was de jure segregation in the past, but the effect of the implementation of Initiative 350, and one of the effects of implementation of Initiative

350 in Pasco may be the concentration of Students in locations where they would not have been located, but for the fact that transportation programs had existed for 14 years.

In other words, it is the position of Pasco intervening plaintiff, that an element to be taken into account in deciding what the effect of implementation of Initiative 350 would be, is the fact that there has been a program operating for 14 years in the past in Pasco, and the schools have been constructed in reliance upon that program and have been located in reliance upon that program, and to now adopt the provision of the nearest, next nearest provision of the initiative, and apply them to Pasco might put Pasco in the terrible position of having located its schools with one set of facts in mind, and now having another system forced upon them, which would make the segregation even greater.

THE COURT: How many questions do you intend to ask on that subject?

MR. BAETZ: Probably about two more. I have two more written down.

THE COURT: I will overrule the objection.

Q. (By Mr. Baetz) There have been no studies, to your knowledge, Dr. Childers, of where the newest schools should have been located if there had not been a student transportation program; is that correct?

A. I have difficulty answering that question.

Q. Do you know of any studies?

A. We have had, in the six years that I have been there, three studies projecting enrollment and housing patterns in the district. My difficulty — my problem in answering your question is the role of the district's bussing program in projecting future school housing needs.

Q. Let me ask the question another way:

Has there been any study, to your knowledge, as to where elementary schools, that elementary schools, or any other elementary schools would have been built

since 1965, and where it should have been built since 1965, if no student transportation program had been operating in Pasco?

A. I think I have to answer that question no.

Q. Would it be accurate to say that Pasco, the Pasco School District, at least to your knowledge and belief, may well have located new schools in different positions in order to enhance integration, had the student transportation desegregation program not been in effect in Pasco?

A. No.

Q. That is not an accurate statement?

A. No.

Q. You would have located the schools in the same location, to your belief?

A. I am not able to say where we would have located them.

Q. Would it be accurate to say you just don't know one way or another in that respect?

A. Yes.

Q. To your knowledge, Doctor, has there been any effort by the state, the county, or the federal government, or any governmental entity, to terminate the Pasco desegregation program?

A. No.

Q. Would it be accurate to state that no state officer, or attorney general, deputy attorney general, or other legal officer, has made any written or oral statements to you threatening to attempt to terminate the student transportation program?

A. That's correct.

Q. In fact, Doctor, is it accurate that no one, whether or not connected with any governmental agency, has made any such threat to you?

A. Such threat relating to what?

Q. To attempting to terminate your desegregation program?

A. Desegregation? No.

MR. BAETZ: I have nothing further.

THE COURT: Any further questions? You may step down, then.

Did you have further questions?

MR. MURPHY: Yes. I thought you were just talking about further direct.

THE COURT: No; any at all.

CROSS-EXAMINATION

BY MR. MURPHY:

Q. Doctor, referring to the map, which is Exhibit 98, you indicated that, since the opening of Livingston School, which is the westernmost school in the City of Pasco, elementary school, and that school only opened last fall, did I understand?

A. Correct.

Q. Since that time, the kindergarteners from the east Pasco area are bussed to the Livingston School?

A. Correct.

Q. So the youngest kids in the school system ride the bus the farthest, I take it?

A. No, that is not correct.

Q. Would you get out the map and explain to me — or you have the map in front of you — explain to me how that can't be true?

A. Because there is another, another elementary school not even shown on this map, twenty miles north, and some of those youngsters ride significantly farther than any of the youngsters we are speaking about in the area here.

Q. This map is not the — this isn't the whole Pasco School District?

A. No.

Q. There is another school, elementary school, 20 miles to the north?

A. That's correct.

Q. On this map. Are kindergarteners from the east Pasco area bussed 20 miles?

A. No, they are not.

Q. Who are the children that ride those 20 miles?

A. They are children who live on farms, some of them riding on the bus as far as 15 miles to that rural school, which is still their closest school.
Q. It is their neighborhood school?
A. I guess so.
Q. When they get on that bus in the morning, they do so voluntarily, don't they?
A. Voluntarily, in the sense —

MR. HALL: Just a minute. I think the witness ought to have an opportunity to answer the question.

THE COURT: Yes. Do you want to finish?

A. The point is, I have to answer your question no, because there are other kindergarten youngsters riding significantly farther than the youngsters in the area here, but I would further have to enlarge that by reason of space and by reason of special programs, there are some youngsters out 20 miles distant who are being bussed back to town.
Q. But not by reason of a mandatory reassignment program?
A. Yes.
Q. Okay. Why don't you explain that.
A. Because there is only one section of each grade in that school out there, and when the number of youngsters begins to reach 34 or 35, we mandatorily transport the next youngsters who come in back to town.
Q. Back to the nearest school which has the grade available to that youngster?
A. Yes.
Q. Do the school children or the parents of school children in East Pasco who are assigned to various schools in the eastern and western portions of Pasco get to pick and choose in any way as to which school they are going to be assigned, or are they just — apparently — let me just leave it that way. Does a parent in East Pasco get any say as to whether or not their child is going to go — excluding kindergarteners — as to whether their child is going to go to Longfellow or Mark Twain?

A. Yes, they do.
Q. How does that system operate?
A. It can operate by several means. They can have attended that school the previous year, and if they have done so, generally we consider that to be then their own neighborhood school.

The other alternative is that they might come in to the East Pasco neighborhood area and express a preference for Robert Gray Elementary School, for example, and if there would be space in that school at that grade level, we would honor their request.
Q. What about if there were space in Robert Gray at the elementary level, but Robert Gray was at the fifty percent minority level? Would you still honor their request?
A. We would not.
Q. So that once the school reaches the fifty percent, that is, combined number of minorities?
A. Yes.
Q. Once the school reaches fifty percent combined minority population, then the next kid in line does not have that school to pick from?
A. That's right.
Q. He may have a second alternative, but he can't pick that one any longer?
A. That's correct.
Q. Where does the figure fifty percent come from?
A. This, as I understand it, is a regulation of the U.S. Office of Civil Rights, and they designate a segregated area as a school whose minority enrollment exceeds fifty percent. Those are the guidelines we operate by.

MS. GREEN: Objection. Your Honor, I would like to see those regulations.

THE COURT: I am going to accept this as being his opinion. If you want to examine him on that, that would be fine.

MS. GREEN: Just his opinion and not the regulations from the Office of Civil Rights?

THE COURT: I will accept that as his stating

that at least it is his opinion that the fifty percent figure comes from the United States Office of Civil Rights. Is that —

THE WITNESS: Those are part of the directions we receive for meeting requirements under Title 1 and Title 7.

THE COURT: I will let you question him on that.

MS. GREEN: Now?

THE COURT: No, we will do it later.

Q. (By Mr. Murphy) What is the combined minority population of the entire district?

A. Including secondary students?

Q. The combined minority — yes, including secondary students and high school students.

THE COURT: This will be all students in the group?

MR. MURPHY: All of the combined minority population of the school district.

A. 26.63, according to the data on page 3 of my testimony.

Q. (By Mr. Murphy) So that I take it you wouldn't adopt the Seattle School Board or School District and the State Board of Education's guideline as to what constitutes a racially isolated school, that is if any school exceeds by — you understand?

A. Yes.

Q. You wouldn't adopt that definition?

A. No.

Q. Because that would identify a racially isolated school as any school that had 46 percent combined minority, wouldn't it?

A. That's my understanding, yes.

Q. Do you believe, Dr. Childers, that a school which is 50 percent white, that in a school which is 50 percent white and 50 percent minority, or 50.1 percent — let's put it that way —

A. Five.

Q. — and 49.9 percent white, are those minority students racially isolated?

A. You are asking my personal opinion?
Q. Yes.
A. No.
Q. Have you taken a look, or has the school district taken a look to see whether or not, given a higher definition of racial isolation, if you chose 60 percent, for example, any school which exceeded 60 percent combined minority population, has any thought or work been done on giving a higher definition of racial isolation, that when this 350 would still permit your plan of implementation of integration in the City of Pasco?
A. No.
Q. No such data. Has there been any discussion on the part of the Pasco School Board as to whether or not they should at least start thinking about raising their definition of a racially isolated school, in order to comply with the terms of the state law in the event it is rendered operative?
A. There has been discussion of it.

MR. HALL: Excuse me. Complies with the terms of which state law, because the State Board of Education has a state law which may become the state law.

I believe, with the Court's indulgence, I would like to know what the question means.

THE COURT: I assume 350, but you specify.

Q. (By Mr. Murphy) If 350 becomes operative and thus overrides any administratively adopted guideline of the State Board of Education —

THE COURT: You started to say the Board has talked about. Would you continue with that?

A. The difficulty is identifying from the various sources exactly what the requirements are and the definition of this sort of thing. Our district has operated under the assumption that the state's regulation formula used to be 40 percent, and the federal government's was 50 percent, and you use the 50 percent one and beyond that, no discussion has been held.
Q. There are many definitions of what constitutes racial

isolation in the context of the schools, aren't there?

A. That's correct.

Q. You have chosen one of them under circumstances, I take it, where you think there is a federally imposed requirement that you do so?

A. Yes.

Q. Can you tell us how many — let me put it this way: Pasco has what is called one way bussing, doesn't it? There are no majority students bussed, are there, mandatorily?

A. Not for purposes of desegregation.

Q. For purposes of desegregation there are no white students mandatorily reassigned?

A. Correct.

Q. I am sure there are many that ride the school bus?

A. Right.

Q. But they ride it to their neighborhood school. Have you taken a look to determine how many minority students are bussed beyond their nearest or next nearest school?

A. This is entirely dependent at the point in time when you are counting the students. I'm sorry. I don't mean to seem obstreperous. Each year at this time, every year, we have an influx of minority students. In the last three weeks, our minority enrollment has increased by probably between 3 and 500 students, and so — at what point in time do you want a number?

Q. Whenever the school was opened last September.

A. By our best estimate, at that time, we were transporting between 3 and 500 minority youngsters.

Q. Beyond their next nearest school or transporting a total of between 300 and 500?

A. We were transporting a total of between 300 and 500 and I do not have a figure better than that.

THE COURT: Was this for segregation purposes or desegregation purposes?

THE WITNESS: Yes.

THE COURT: Just that purpose alone, between 300 and 500?

THE WITNESS: Correct.

THE COURT: That is district wide, to all schools?

A. Yes.

Q. As far as you know, the school district, since the passage of 350, has not broken that down to determine how many of that, say, 300 minority students are assigned to a school which is beyond the next nearest school to their place of residence?

A. In my opinion it is not possible to do that, because we don't know what the next nearest school is.

Q. Why not?

A. If you will take a look at the map, you immediately have difficulty in identifying which is the next nearest school from a given location in East Pasco.

THE COURT: Is one of the problems — I think you said on the eight railroad tracks there are only certain places where you can cross those tracks?

THE WITNESS: Only two places of access.

THE COURT: Is that one of the crossings?

THE WITNESS: Yes.

MR. MURPHY: I think I see what he is talking about.

Q. (By Mr. Murphy) Dr. Childers, towards the bottom of the map, towards — just east of Longfellow School where there is a street — it looks like Lewis Street, does Lewis Street cross the railroad tracks?

A. Yes, it does.

Q. Okay. Then, the only other access, I take it, across from East Pasco to the western portion of Pasco is the freeway?

A. That's correct.

Q. So that your problem, I take it, is —

A. Actually, there is another crossing, and it is not identified, but it is — another line that runs approximately parallel to the Lewis Street. So there is a third, but that is an industrial area. There are virtually no children there.

Q. What are you telling me, then, if your problem?

A. Well, Longfellow would appear to be the nearest school to East Pasco. I am telling you, then, that I don't know whether Captain Gray or Emerson is the next nearest school. Is it as the crow flies? Is it by the nearest road? And these are some of the kinds of questions that Dr. Brouillet submitted in that list of questions he spoke to earlier today.

Q. Exercising your judgment as a, I believe, 24 year school teacher and school administrator, and being — and assuming you are a reasonable school administrator, what — using a reasonable man's standard, what do you think is the next nearest school to East Pasco?

THE COURT: Does he not have to take a particular student's residence?

THE WITNESS: That was the point I was going to make.

Q. Take the nearest residence in East Pasco to the railroad track and assume that Longfellow is the nearest school to that child's residence. What do you think a reasonable choice of the next nearest school would be?

A. I am sorry. I can't tell you. I am familiar with the geography, but I don't know which one is the closest.

Q. Turning to page 5 of your prepared statement, Dr. Childers, you have four numbered paragraphs there explaining what would — what Initiative 350 — that Initiative 350 would require the following actions to be taken, reassignment of students not currently attending the nearest or next nearest school from their place of residence.

Have you determined how many students would have to be reassigned and to what schools?

A. Not specifically. At best, we are able to estimate it would be probably between 3 and 500 youngsters.

Q. To shorten things up, your answer would be the same, I take it, for your paragraphs, 2, 3, and 4? Well, obviously not with 4, because it doesn't talk about reassignment.

A. I rather — in the case of number two, you would

reassign a number of youngsters, and you would then have a bumping effect. Youngsters reassigned, for example, to Captain Gray would result in displacement of youngsters currently attending Captain Gray, and they would, then, be bumped into the next nearest western school, and depending — our schools are virtually at maximum, so you have a bumping effect that might cause the displacement of any number of youngsters when you originally implemented 350.

Q. But you haven't tried to figure that out either?

A. No, we have not.

Q. Going down to the subheading "Problems created by Initiative 350," you said that "Three grade schools would become segregated, paren, minority enrollment exceeding 50 percent, close paren."

By how much would those three schools exceed 50 percent minority populations?

A. I'm sorry, I can't answer that.

Q. So you don't know whether or not they would, in truth, be racially isolated or not either, do you?

THE COURT: Isn't he saying that — let's see, that three would become segregated and you say minority enrollment exceeding 50 percent. Would he not have to know what you mean by "racially isolated"?

MR. MURPHY: He indicated earlier —

THE COURT: 51-49, he said, "No."

MR. MURPHY: If it is 90 percent —

THE COURT: Are we using that criteria now, 51-49? All I want to know is — is to have all of us thinking along the same lines.

MR. MURPHY: What I am trying to get at, because he doesn't know what the percentage of minority population would be in those three schools, he doesn't know whether, in his own personal view, any of those schools would be — any of the students in those schools would be racially isolated from the white population of the school district.

For example, if one of those schools were to be 95 percent minority, I think all of us would agree that

the students there would be racially isolated, but I think there would be strong argument among educators and other members in society if one of those schools turned out to be 62.1 percent — or 61.1 percent minority, as to whether or not those minority students were isolated from the white school community, and all I am asking is, that he can't make that judgment because he doesn't know what the percentages are.

THE COURT: Is that true?

A. (By the witness) That's correct.

Q. (By Mr. Murphy) In paragraph 2 you talked about one black grade school, two Hispanic schools and four white schools.

Again, we are at the elementary level here, right.

A. Yes.

Q. When you say one black grade school, are you saying that all of the blacks will be in one grade school, or are you saying that one grade school will have a black population exceeding 50 percent?

A. Would you again identify the source of that, please?

Q. It is paragraph 2, numbered paragraph 2 on page 5, under "Problems created by Initiative 350."

A. I see.

It is line 16 on that page.

THE COURT: Why don't we just — why don't you read it so that everybody in the courtroom will know what that paragraph is.

MR. MURPHY: "Persistence of racial separation in public schools (Initiative 350) will create one black grade school, two Hispanic schools, and four white schools."

Q. (By Mr. Murphy) What I am asking is, does that mean that you will have one elementary school in Pasco where all the black students attend, or does it mean that there will be one school in Pasco which — in which the black students will constitute more than 50 percent of the population in the school, or does it mean something else?

A. Okay. Essentially it is the latter suggestion you made,

that there would be one elementary school that would have a majority of black students; two elementary schools that would have a majority of Spanish students, and the rest would be Caucasian.

Q. Majority?

A. By my best estimates.

Q. But you don't know by what percentage the black students would constitute the majority in the one school?

A. No.

Q. Going over to page 6, Doctor, on line 5 of that page — this is your paragraph 11 of the list of things that you think would be — list of problems that you think would be created by Initiative 350.

You say, "Loss of one-half of Title IA Services for elementary school age children, in addition to 50 percent of the costs to the remaining Title I school; and possibly the loss of the entire Title IA program plus material, supplies * * * resulting in a complete loss of remedial programs in the district."

What do you base that fear on?

A. This advice came to me from our Director of Federal Projects, who has familiarity, whom I use as a source on these regulations, and he advised me that approximately half of our schools that are currently designated as Title I target schools would not become — would no longer be eligible, because of this excessive minority enrollment, and hence the reason for this statement.

Q. Has he advised you that some federal office, some speaking agent of the United States Government has threatened to pull those funds back if one of those schools hits 52 percent minority?

A. We are having problems right now because of enrollment of minority students in some of our schools.

Q. That is not what I asked, I guess.

A. Okay.

Q. Has your federal programs officer advised you that any officer of the federal government has said if you let — if you implement Initiative 350 we are going to cut off

your funds?

A. No.

Q. On line 10 of that page, paragraph 12, you say, "Title VII ESAA Services to seven schools in the area of counseling, language development, reading, and human relation development." That isn't the complete sentence.

What you are saying, I take it, is that you would lose Title VII ESAA Services?

A. I believe that is the type of services.

Q. Has any officer of the federal government threatened you or your federal program officer with the loss of those Title VII funds if you implement Initiative 350?

A. No.

Q. Upon what do you base your statement on line 13, paragraph 13, Doctor, that you would lose minority staff recruitment if Initiative 350 is implemented?

A. It is our experience in recruiting minority staff members that one of the first questions prospective candidates ask is if we in fact had a segregated or a desegregated school system. They began to talk and ask us questions about the system we utilize in desegregation, and we believe that this has an effect on their election to assign a contract in a school district or not.

Q. When those applicants ask you whether or not you have a segregated school system, do they say, "Dr. Childers, do you have any schools in your system in which the minority population exceeds 50 percent?" Or do they say, "Is Pasco committed to a policy of school desegregation?"

A. Well, I don't know which way they definitely ask the question. I think they just generally speak to a plan of desegregation.

Q. You don't know that your minority recruitment — recruitment program would come to a screeching halt if suddenly you found yourself with a couple of schools with 60 percent combined minority population?

A. I don't know that, no.

Q. Do you know whether or not that's true in any other school district in the state — in the country? Do you know of a school district in the country which has 65 to 70 percent minority population which cannot recruit minority staff members?

A. No, I know of no such school district.

EXHIBIT 9

DEFINITION OF RACIAL IMBALANCE AND 1978-79 AND 1979-80 PERCENTAGE GOALS RESULTING IN THE ELIMINATION OF RACIAL IMBALANCE

WHEREAS, the Board of Directors of Seattle School District No. 1 has found that the best interests of the children of Seattle School District No. 1 will be served by providing all school children with the opportunity for a quality multiracial education; and

WHEREAS, the Seattle School District has for a number of years worked to improve racial balance in the schools and to provide a multiracial balance in the schools and to provide the opportunity of a multiracial educational environment for all children during their educational careers; and

WHEREAS, the Board of Directors affirms its policy to work toward a multiracial educational system by whatever just, reasonable, and educationally sound means are available to it; and

WHEREAS, the Board of Directors is cognizant and appreciative of the strong and united community support for the above described efforts; now, therefore,

BE IT RESOLVED THAT:

1. The Seattle School District No. 1 will eliminate racial imbalance in Seattle Public Schools by the beginning of the 1979-80 school year. Any school exceptions, necessitated by unique program requirements, will only be for educationally sound reasons. These will be documented

and approved by the Superintendent on a case-by-case basis, and submitted to the Board for ratification.

2. Racial imbalance is defined as the situation that exists when the combined minority student enrollment in a school exceeds the District-wide combined minority average by 20 percentage points, provided that the single minority enrollment (as defined by current federal categories) of no school will exceed 50 percent of the student body.
3. Racial imbalance will be eliminated by the use of educationally sound strategies.
4. The elimination of racial imbalance will be planned and implemented so that at least one-half of the elimination occurs in the 1978-79 school year. During the 1978-79 school year, this goal will be achieved by eliminating racial imbalance in at least 50 percent of those schools identified as racially imbalanced; or by reducing racial imbalance by one-half in all schools identified as racially imbalanced; or by a combination of these measures.
5. The commitment and definition contained herein is controlling over other commitments and/or definitions which might be construed as inconsistent with this Resolution.

Adopted this 8th day of June, 1977.

/s/_____
Don Olson, President

/s/_____
Suzanne Hittman, Member

/s/_____
Patt Sutton, Vice President

/s/_____
Dorothy Hollingsworth, Member

/s/_____
Richard Alexander, Member

/s/_____
Ellen Roe, Member

/s/_____
Cheryl Bleakney, Member

ATTEST:_____
David L. Moberly, Secretary
Board of Directors
Seattle School District No. 1
King County, Washington

EXHIBIT 97

PREFILED WITNESS STATEMENT OF H. JAY CHILDERS

I have been Superintendent of Pasco School District No. 1 since 1973. I have been an educator for 28 years, receiving my bachelor's degree from Whitman College and my masters and doctorates from Washington State University. Prior to becoming Superintendent in Pasco I served as Superintendent in Snoqualmie Valley and Touchet, Washington, and as Assistant Superintendent in Eastmont and Kennewick, Washington. I make this Affidavit from my personal knowledge and from information made available to me in the ordinary course of business in my capacity as administrator for the Pasco School District.

BRIEF HISTORY OF DESEGREGATION IN PASCO

In 1943 the Energy and Research Development Administration, at that time known as the Manhattan Project, selected the Hanford site for the production of plutonium for the atomic bomb. The composition of the Pasco population in 1943 was predominantly white. Thousands of blacks from southeastern states began to arrive in the Tri Cities to work on the Manhattan Project at Hanford. At that time Richland was a government-owned town and under rigid housing regulations. Blacks were unable to find housing in either Richland or Kennewick.

Pasco, on the other hand, was a railroad town, and the availability of homes was greater. Blacks and other minorities began to move into the segregated East Pasco area, east of the railroad tracks. These railroad tracks still stand as a permanent demarcation describing East and West Pasco.

With the phasing out of the Manhattan Project and its successor, the U.S. Atomic Energy Commission, many individuals stayed and sought whatever work was available. As population increased, there began a trend of migration of whites to the West Pasco area, leaving much

of the former older housing isolated in what became known as the East Pasco Ghetto. New schools followed these population shifts, and as a result, one original school, Whittier, was left in East Pasco. This created a segregated school system.

In the spring of 1965 the Pasco School Board elected to close Whittier Elementary School. At that time approximately 150 black students in grades 1-6 comprised 93% of the Whittier School population. The closing of Whittier prompted a systematic plan for equalizing pupil distribution by race and by socio-economic background throughout the balance of the Pasco School System. A busing scheme was developed, and attendance boundaries were changed.

Throughout the years as enrollment has grown and new elementary schools have been constructed, this pattern of distribution of black youngsters, primarily from East Pasco, has been maintained.

In recent years, the District, because of agricultural development, has experienced significantly increasing numbers of Mexican-American youngsters attending schools in the District. These youngsters reside in either East Pasco or in the east portion of the downtown Pasco area. Deliberate efforts have been made to distribute these youngsters throughout the elementary schools in the District. This distribution of minority youngsters throughout the District has been accomplished by a system of busing. Attached to this affidavit as Exhibits A and B are a synthesis of the Pasco desegregation plan and pertinent sections from the School Board's adopted policies, respectively.

On October 1, 1978, the District's students had the following racial makeup:

Black	7.56%
Asian	.84%
Native American	.47%
Hispanic	17.71%
Caucasian	73.42%

The racial breakdown of elementary students

involved even higher percentages of minorities:

Black	6.79%
Asian	.92%
Native American	.72%
Hispanic	21.71%
Caucasian	69.86%

The minority students of the District are predominantly located in three specific sites in the District:

1. A mobile home court in the southeastern portion of East Pasco. Virtually all of the youngsters who come from this site are Mexican-American.

2. Low income housing units located directly in East Pasco. The population is about evenly divided between Mexican-American and black.

3. A low income housing development immediately across the tracts from East Pasco. The majority of the youngsters in this development are Mexican-Americans.

The Pasco District has seven elementary schools. Three would be predominantly white and three predominantly minority but for the assignment practices of the District which distribute minority students among all schools. Because the minority-area schools are on one side of town, and the majority-area schools are on the other, assigning students to the nearest or next-nearest school would not desegregate the system. Current minority percentages on the elementary schools are as follows:

Mark Twain	15.7%
Longfellow	50.0%
Livingston	15.3%
Gray	38.9%
Robert Frost	31.6%
Emerson	44.8%
Markham	12.9%

IMPACT OF IMPLEMENTATION OF INITIATIVE 350

Because of the geographic location of the minority student residency, and because of limited access to this area of minority residency, there is no way to effect

desegregation within the confines of Initiative 350. District staff have analyzed the affects of assigning students to the nearest or next nearest school. Implementation of Initiative 350 will require that the Pasco School District take the following actions:

1. Reassignment of students not currently attending the nearest or next nearest school from their place of residence.
2. Re-reassignment of elementary students to relieve overcrowding in schools caused by reassignment because of Initiative 350.
3. Re-reassignment of students to balance classroom loads among individual schools to comply with School Board policy.
4. Reorganization of bus routes to accommodate delivery of students from home to nearest or next nearest school.

PROBLEMS CREATED BY INITIATIVE 350

Among the deleterious effects of implementation of Initiative 350 are the following:

1. Three grade schools would become segregated (*minority enrollment exceeding 50%*).
2. Persistence of racial separation in public schools (Initiative 350 will create *one black* grade school, *two Hispanic schools*, and *four white schools*).
3. Destruction of climate of racial relations that has been established since 1972.
4. Creation of racial unrest in the secondary schools because of segregated elementary schools.
5. The quantity and quality of equal education opportunities will be undercut for students who attend segregated schools.
6. Local control of education will be diminished.
7. School officials are apparently prohibited from making educational changes in grade configurations even when the school population is on the increase.
8. Creation of negative working attitudes of minority staff.

9. Decrease of positive interaction between minority and nonminority students.

10. Removal of students from opportunities of understanding how to live in a multiracial society.

11. Loss of one-half of Title IA services for elementary school age children, in addition to 50% of the cost to the remaining Title I school; and possibly the loss of the entire Title IA program plus material/supplies * * * resulting in a complete loss of remedial programs in the District.

12. Title VII ESAA services to seven schools in the area of counseling, language development, reading, and human relation development.

13. Loss of minority staff recruitment.

14. Lack of staff ability to deal with minority schools.

15. High Hispanic population schools, which include a high migrant population, would become transient.

16. A reduction in the attainment of English by monolingual Spanish-speaking students who attend schools with high concentration of Spanish-speaking students.

IRREPARABLE HARM RESULTING FROM IMPLEMENTATION OF INITIATIVE 350

Implementation of Initiative 350 in Pasco *during the present school year* would cause the following irreparable harm:

1. The instructional program of hundreds of students will be disrupted in the middle of the year by reason of changing schools and changing teachers.

2. The goodwill, confidence and loyalty of hundreds of parents and students will be lost by reason of the District assigning them to schools other than the ones they are currently attending.

3. The District will become ineligible for receipt of thousands of dollars to conduct programs for minority and disadvantaged students.

4. Because of lack of funding, a number of state and federally funded programs designed to meet special needs of students will be terminated.

5. There would be unanticipated expenditures of thousands of dollars to carry out the necessary administrative and clerical activities required by reassignment of hundreds of youngsters to schools other than the ones that they are currently attending.

/s/_____
H. Jay Childers

SUBSCRIBED AND SWORN to before me this 26th day of December, 1978.

/s/_____
Notary public in and for the state of Washington, residing at Pasco.

EXHIBIT A (to Exhibit 97)

THE PASCO DESEGREGATION PLAN

A Synthesis of the Plan as Contained In ESAA Title VII, 1973-74 Proposed Project Narrative

PASCO SCHOOL DISTRICT No. 1 recognizes and subscribes to the premise that Washington State public school systems can and should take the following steps toward achieving comprehensive racial and socio-economic desegregation in the local system:

1. Pasco School District and the Board of School Directors have adopted written policies which recognize the benefits of racial and socio-economic desegregation in the school system. These policies are intended to provide direction to all school personnel in furthering the welfare of our nation, state and our community through equality of educational opportunity.

2. Pasco School District continues to recognize the need for staff training in professional skills and attitudes necessary to accomplish quality education in a pluralistic system. Efforts funded locally and regionally have taken place since 1970 in the school district whereby training needs are being met. The

school district has worked with Eastern Washington State College, Central Washington State College, the University of Washington and Washington State University in efforts to accomplish training goals. These efforts shall continue.

3. The Board of School Directors and the District Office administration have made a conscientious effort to make administrative assignments in such a manner as to promote racial and socio-economic desegregation, and to provide quality supervision of K-12 education in the local system.

4. The Pasco School District maintains a practice to assign student teachers, cadet teachers, visiting teachers, paraprofessionals and interns to school and classroom environments which are multiethnic, multiracial and socio-economically heterogeneous. This is to provide students and professionals with experiences working together in a desegregated and pluralistic school system.

5. Pasco School District maintains a practice to assign substitute and part-time teachers to school and classroom environments which are racially and socio-economically desegregated. This practice serves a two-fold purpose: Substitute teachers are provided opportunities to work with teachers of varied racial and socio-economic backgrounds.

6. Since 1964-65, Pasco School District has conducted studies of educational facilities and has implemented plans incident to these studies for the purpose of increasing racial and socio-economic desegregation. At this time, there has been achieved a racial and socio-economic balance of children among school buildings and among programs in these buildings.

7. The selection of new school sites in Pasco School District and the refusal to build a second high school have each contributed to long-range continuation of desegregation at all levels of the K-12 system. The newest elementary schools are the neighborhoods where low-income housing has been constructed. In 1965 the only "ghetto" school was closed.

8. Pasco School District has acquired and made maximum utilization of multiethnic, multicultural

and (bilingual instructional) materials for use throughout the K-12 system. Special teachers and librarians have been employed since 1970 to ensure full utilization of these materials.

9. Pasco School District has defined curricular, co-curricular, and extra-curricular student groups and organizations for the expressed purpose of providing increased opportunities for students of different backgrounds, and to interact in competitive and non-competitive ways.

10. Students service in Pasco School District are reflective of pupil populations. Counseling, guidance, testing, placement and so forth are services which are sufficiently flexible in design so as to provide for racial, socio-economic and other critical differences in meeting particular needs of students in the pluralistic Pasco system.

DESEGREGATION PROCEDURES

5112. **School Attendance Areas and Transfer of Elementary Students.**

The Board of Directors accepts its responsibility for establishing attendance zones in such a way as to facilitate the educational program. In considering school attendance areas, consideration will be given to the following factors:

A. Educational needs of students
B. Proximity of students to school plants
C. Safety of students
D. Ages of students served
E. Nature of educational programs housed
F. Racial/ethnic balance
G. Capacity and physical condition of school plants

5112.1 **Transfer of Elementary Students**

It is the belief of the Board of Directors that class size within the Pasco School District should be balanced in order to help ensure equal educational opportunity and economically sound and educationally desirable levels.

Shifts in the elementary pupil population may be made to rectify imbalances in student enrollment patterns. This will be

accomplished through intradistrict transfer of students and/or the alteration of attendance boundaries.

5112.2 **Procedures for Transfer**

In the event of imbalance within a given building, the possibility of combination classes will be given first consideration if there is sufficient classroom space available.

a. Other procedures which may be used include the following:

1. Each building shall have a designated enrollment which is consistent with the class size policy and with the building capacity for health and safety factors.
2. When foreseeable, all adjustments or transfers will be established prior to the first day of school with notification made to affected parents via personal contact, telephone, or conference. In the event balancing is necessary after the beginning of school, children and parents shall be notified in the following manner.
   (a) The number and grade level of pupils to be transferred shall be determined.
   (b) Children shall be selected on the following basis: (1) a neighborhood area; and (2) proximity to an established bus route; (3) number of transfers the student has previously made within the District.
   (c) Parents shall be notified by the building principal in advance of the transfer, by telephone or personal contact with a follow-up letter clearly stating the background information necessitating the transfer.
   (d) Transfers shall be effected at the earliest possible time.
   (e) Every effort will be made to ensure that students are not transferred away from special programs

designed to benefit them.

3. When appropriate, balances shall be achieved by means of minor adjustments of boundaries between two adjacent attendance areas.
4. Children of the same family shall be kept together if it is at all feasible.

EXHIBIT B (to Exhibit 97)

SECTION FROM BOARD'S POLICY

All policies of the Pasco School District were revised extensively by the Pasco School Board of Directors and were adopted at a regular school board meeting on April 22, 1975.

13.00 RACIAL RELATIONS

Desiring to record its position in regard to the urgent matter of racial relations, the Pasco School District holds:

1310. That a better educational experience for all children exists if every child has the privilege of learning in a multiracial setting.

1320. That the contributions made by all racial groups to our country's growth and development should be emphasized in the instructional program.

1330. The recruitment of qualified teachers, administrators, paraprofessionals, auxiliary teacher aides, bus drivers and custodians be broadened not only to build a multiracial atmosphere, but as a step in bringing racial minorities into socially desirable employment.

1340. That vocational technical courses be broadened to ensure that no barrier, real or implied, precludes equal employment opportunities for every student.

1350. That extra and additional funds should be used to provide compensatory education and services for any who come from culturally and economically deprived backgrounds.

SUMMARY OF DESEGREGATION PLAN

The plan can be summarized with the following statements:

1. The Pasco School District will continue to develop an effective plan to desegregate its schools if needs dictate certain changes are necessary and beneficial for the students enrolled.
2. The Pasco School District will continue to recognize the need for staff training in professional skills and attitudes necessary to accomplish quality education in a pluralistic society.
3. The Pasco School District will continue to recruit minority personnel to provide Equal Educational Opportunities for all its students.
4. The Pasco School District will provide curriculum to its students that are multiethnic/multicultural in contents.

EXHIBIT 99

EXCERPTS FROM PREFILED WITNESS STATEMENT OF DR. EUGENE TONE

* * *

15. In April 1968, the Tacoma School Board adopted major changes designed to ease the perceived racial imbalance in Tacoma schools. The major changes included:

(1) Closure of McCarver Junior High School as a junior high school, and transfer of all junior high school students attending McCarver to junior high schools throughout the district.

(2) Establishment of an exemplary elementary school ("magnet school") at the McCarver Junior High School facility, with admission open to students throughout the district by voluntary application only, and with student attendance controlled by the district to preserve an appropriate racial balance;

(3) Closure of Central Elementary School;

(4) Transfer of all sixth graders at Stanley Ele-

mentary School to other elementary schools throughout the district;

(5) Reaffirmation of the district's position that no high school in the Tacoma School District will be allowed to become *de facto* segregated.

Exhibit T-6 is a true copy of the district policy implementing these changes.

16. Following this school district action, McCarver Elementary School went from an 87 percent black population in 1967 to a 53 percent black population in 1969. Exhibit T-7 is a true copy of the ethnic composition survey dated October 2, 1969.

17. In May 1970, the Tacoma School Board adopted policies specifically committing the district to elimination of racial imbalance to levels within the State Board of Education guidelines, and establishing a technologically advanced elementary school ("magnet school") at Stanley Elementary, with an admission program similar to that existing at McCarver Elementary. Exhibit T-8 is a true copy of the School Board policy adopting this program.

18. By September 1971, elimination of board-defined racial imbalance at McCarver Elementary School had been completed, according to the ethnic composition survey dated October 2, 1971. Exhibit T-9 is a true copy of the October 2, 1971 ethnic composition survey.

19. By September 1972, no school in the Tacoma School District had minority enrollment in excess of 50% of total student enrollment except Hawthorne School. Exhibit T-10 is a true copy of the ethnic composition survey dated October 2, 1972.

20. Hawthorne School had, since 1968, housed much of the District's Headstart and Follow-Through programs, which added sufficient numbers of students to justify an otherwise inefficiently low general enrollment at the school. Those programs continued into the 1973-74 school year, when they were all finally moved to other District facilities. The Hawthorne building was, even in 1972, a substandard structure, and Health Department and Fire Department authorities had raised serious questions about

the desirability of Hawthorne continuing to serve children, and particularly young children, because of earthquake damage and structural and other defects sustained by the Hawthorne building. After the District removed its programs from Hawthorne, it leased the facility to the Puyallup Indian Tribe.

21. In November 1972, the Board adopted a limited voluntary optional enrollment program for high school students, allowing high school students to attend, with certain qualifications, the school of their choice. * * *

EXHIBIT "T-8" (to Exhibit 99)

RELIEF OF DE FACTO SEGREGATION AT STANLEY SCHOOL

Believing that the American society grows healthier when all of its members are able to function freely in the mainstream of our life, and believing that the educational experiences of children increase their ability to function productively in the American society, and believing that all children should have multi-racial educational experiences, the Board of Directors of Tacoma School District No. 10 adopts as policy the following:

1. When any school, elementary, junior high school or senior high school, reaches an enrollment in which students of any single minority group comprise 40 percent, specific actions will be taken by the Tacoma School District to prevent that school from becoming "de facto" segregated as defined by the State Board of Education.
2. In those schools that are presently "de facto" segregated as defined by the State Board of Education, specific actions will be taken by the Tacoma School District for the school year 1970-71 to reduce the degree of "de facto" segregation in those schools.

Taking into account the policy statements of the State Board of Education, its own statement of policy and the results of the survey of parents in the Stanley attendance

area, the Board of Directors of Tacoma School District No. 10 now adopts the following recommended actions:

1. The optimum enrollment for students attending Stanley Elementary School is established at 600.
2. The desired objective for Stanley Elementary school is a student enrollment that is no more than 40 percent of one minority.
3. In order to achieve, in part, the objective regarding the racial composition of Stanley School, all families moving into the Stanley attendance area after June 1, 1970, will be offered a choice of schools other than Stanley for their children to attend.
4. In view of the stated willingness of some parents to have their children attend other schools, the Tacoma School District will initiate an intensive effort to assist students presently in the Stanley attendance area to attend schools elsewhere in the Tacoma School District. Special efforts will be made in this process to provide convenient and free transportation.
5. Since funds have now been assured through non-local sources, the Tacoma School District will implement as rapidly as possible the Technologically Advanced Elementary School program at Stanley, an exemplary program similar to that at McCarver, in order to attract Caucasian students into Stanley School.
6. In response to the survey of parent attitudes in the Stanley Elementary School attendance area, the sixth grade level will be restored at Stanley Elementary School, so that it might provide a complete elementary school educational program from kindergarten to the sixth grade level.
7. The Tacoma School District will proceed with its present planning to improve the physical facilities at Stanley Elementary School, utilizing funds tentatively allocated to the District under provisions of Senate Bill 737.
8. A portion of the funds available to the Tacoma School District for a summer counseling program will be utilized in the month of June to assist with the implementation of these plans. Elementary schools to receive Stanley students will be

requested to make preparations for their introduction into these schools, including advance invitations to be presented to parents through the summer counseling program.

EXHIBIT 117

TO THE STATE BOARD OF EDUCATION
October 19-20, 1978

JOINT POLICY STATEMENT WASHINGTON STATE BOARD OF EDUCATION WASHINGTON STATE HUMAN RIGHTS COMMISSION

The Washington State Board of Education and the Washington State Human Rights Commission recognize the increasing complexity of assuring equal opportunity and excellence in education to all children and youth in our public schools. Both boards adopt the following criteria as guidelines for developing programs in this urgent area of human relations.

The Washington State Board of Education and the Washington State Human Rights Commission jointly declare that racially segregated schools are a barrier to quality education and to equality of opportunity in education. Therefore, these boards agree that:

a. The term "racial segregation" be and hereby is understood to mean racial isolation that generates feelings of rejection or superiority, and that such isolation may be either numerical, psychological, or both, the two boards recognizing that special attention should be given to American Indian communities because of the trust relationship with the federal government.
b. The goal of these two boards is to afford every child in the state a multi-racial/multi-cultural educational experience free from discrimination in any form.
c. Racial segregation as defined in (a) above must be

eliminated from the public schools of the State of Washington.

d. Wherever a condition of numerical isolation exists, a district should be required to submit a plan and annual reports to the State Board of Education, such plan to include a timetable for accomplishing this objective.

The State Superintendent of Public Instruction will continue to require each school district to keep annually revised statistical information as to the racial composition of school enrollment and staff in each school. A copy of this information will be sent to the State Human Rights Commission each year as soon as it is compiled.

For purposes of this statistical information, the following criteria are to be used in determining the existence of racial isolation within a school district. Racial isolation is a condition existing when the racial composition of students in any school building fails to reflect the racial composition of students for the entire district. Care should be taken to ensure, even in districts with low percentages of minority students, that no schools are racially identifiable. The State Board of Education considers racial isolation to exist in a school district when:

> the combined student enrollment in a school/program exceeds the districtwide combined minority average by 20 percentage points, provided that the single minority enrollment (as defined by current federal categories) of a school/program will not exceed 50 percent of the school enrollment. These standards apply except in special circumstances where more restrictive criteria may be determined necessary by the two agencies.

We recognize that it is no easy matter for school board members, concerned citizens and educators to bring about the desegregation of students. Desegregation is only the first step toward integration but is the step, nonetheless, that must be taken if progress toward integration is ever to be achieved. School desegregation implemented with integrity and with adequate human and financial resources

enhances the educational opportunities for all youth.

Those involved in the preparation of school personnel in undergraduate, graduate and in-service programs share the responsibility for equipping educators with the necessary knowledges, skills and competencies which will help change desegregated buildings into integrated learning environments. We urge the development and implementation of processes such as:

a. Examining and analyzing school district policies and procedures
b. Increasing administrators' expertise in working in the desegregated setting
c. Augmenting teachers' skills in applying appropriate instructional techniques in the desegregated setting
d. Strengthening school-community communication

The Washington State Board of Education and the Washington State Human Rights Commission will continue to employ mechanisms preventing the extension of racial isolation where this is or threatens to be a problem. At the same time, educators must ally themselves with other groups in the state and local community which are working to eliminate the practices which result in segregated housing patterns such as zoning policies, housing subsidy policies and mass transportation patterns.

We recognize that some school districts have progressed through comprehensive desegregation and reached the point where they have implemented an encompassing set of goals for integration. To continue this achievement, the following educational goals are reaffirmed.

.... The academic achievement of minority students should be improved so that distribution of their academic achievement scores will correlate with that of the majority students in their classrooms without an accompanying negative effect on the achievement of the majority. The average performance of students from all ethnic groups will approach the state and national norms upon testing.

.... Minority students should become integrated into the social system of the school so that they hold comparable status in that system to those held by majority students, such as in athletics and all other curricular and extracurricular activities.

.... There should be integration of minority educators throughout the staff of the schools of the district so that the opportunity structure of the district is open equally to minority and majority educators. Minorities shall be recruited for positions in the schools at all levels.

.... Districts should provide a climate for meaningful interaction and input between majority and minority parents.

.... Attitudes toward self and motivation for school and academic achievement should become equal and positive in all groups.

.... Curriculum materials, teacher attitudes, and teaching procedures should be developed so that each child has an opportunity to understand and to develop pride in one's own ethnic heritage and to understand and respect the ethnic heritage of other groups in the classroom and in American society.

A majority of the school systems in Washington State have multi-racial enrollments but are not truly integrated. To prepare young people in these systems for living in a multi-racial and multi-cultural society requires extraordinary measures and imagination. Such systems should strive to achieve an integrated staff and administration, develop educational programs designed to bring young people of different races and cultures together, design work study projects in a broader neighborhood than the local community and insure that the curriculum and enriching experiences of the school program reflect the diversity of the world of which their students will soon be a part.

The Washington State Board of Education and the Washington State Human Rights Commission reaffirm their position that a component of quality education is racial integration. The presence in a school of children from different racial and socio-economic backgrounds is an im-

portant element in the preparation of young people for active participation in a pluralistic democracy.

The public school has long been viewed as a basic social instrument in attaining our traditional goals of equal opportunity. While we recognize that the school alone cannot solve the ills of segregation that exist in the larger society, it is still incumbent upon the public school systems to develop and administer policies, procedures, and programs in ways which lessen the deleterious effect of racial prejudice and segregation on both majority and minority children in the total community.

School boards have the responsibility, as well as the duty under the Federal Constitution and laws of the State of Washington, to assign children to buildings in ways which result in the maximum desegregation possible by whatever means that are necessary.

Whereas, Initiative 350 would if passed apply to school districts throughout the State, and would decrease local community control over important parts of the educational program, and

Whereas, it is sponsored by a group having the sole purpose of overturning the Seattle Plan for desegregating that District's schools, and

Whereas, The Seattle Plan has previously been commended by the State Board of Education as a sound, locally devised plan which was developed with broad participation of groups and individuals in the community, and

Whereas, the sponsors of Initiative 350 are seeking to accomplish, through a state-wide initiative directed at a local situation, what they have been unsuccessful in accomplishing through the courts,

Now be it resolved that:
The State Board of Education strongly believes

that the passage of Initiative 350 would be * * * for education. It is the Board's judgment that the initiative would deprive communities throughout the State of a significant measure of control over their local school programs.

EXHIBIT A-18

EXCERPTS FROM PREFILED WITNESS STATEMENT OF DR. DAVID L. MOBERLY
(Tr., pp. 147, 148)

* * *

Q. What about any specific input that you might have had about Blacks moving out of the Seattle school districts as a direct result of desegregation efforts? Have your administrators been channeling any information like that?

A. I don't know. In comments, we have large numbers of minorities that are opposed to desegregation. The Asian community, as I go out, I had concerns voiced about desegregation. I think, publicly, we have seen, recently, minorities at our Board meetings opposing desegregation at both the Madrona and the Coleman attendance areas. I think it is a false assumption on all of our parts to assume that only the majorities are opposed to desegregation. I think the population is mixed out there in viewpoints on it.

Q. When you say that they are opposed to desegregation, is that to desegregation as a whole or is this to the desegregation efforts, the mandatory aspects of desegregation?

A. I think the mandatory efforts, in other words, "busing." I haven't found anybody that really loves it.

Q. They go along with the idea of desegregation, but not forcing them onto a bus?

A. Not by busing.

If you get out in your Asian community, your Black community, you will find a lot of opposition to it.

It's not a popular thing.

Q. Have they ever articulated any reasons why the mandatory busing is particularly distasteful to them?

A. I get every reason under the sun as I talk with people, and I do talk with a lot of people, a lot of people call me just to complain. This morning I got a call, and the parent was very upset and was not against desegregation, per se, but was upset about the time and the fact that she had to get up at 6:30 in the morning to get that kid off to school. Now, it would be all right if we would slide the starting time one hour the other way so that we could sleep for another hour.

So, you know, you get all kinds of reactions on it. I think, basically, the attitude, when it involves busing with the average public out there, they claim — they favor the neighborhood school for as many different reasons as the people you talk to. * * *

APPELLEE'S DESIGNATIONS
EXCERPTS FROM TESTIMONY OF CHERYL BLEAKNEY
(Tr., pp. 43, 63-67, 69)

* * *

and it was exactly seven years ago the month of April, we received a decision by the State Supreme Court, declaring that the Citizens Against Mandatory Busing case against us was invalid, and that we could go ahead with the middle school desegregation program, which the previous Board had set in motion, and had been stayed by the Court.

That began the following September. My best recollection of the events is that it's been a continuing commitment to try to achieve integration of our school system, because of the belief in the educational benefits of an integrated school system.

We have had a number of other problems, financial in particular, that have taken a great deal of our time; but I would have to say that desegregation has been

one of the major interests and concerns of the Seattle School Board. * * *

* * * The cost of the transportation in a voluntary plan is by its nature more expensive, and I believe we have figures that could certainly show this: That when you move lots of children as a neighborhood together, you fill up a bus to its capacity of 25, 30 children, and it becomes a most economical way of transportation. There are maybe two or three stops within a neighborhood, and then directly to the destination.

With a voluntary plan, you accept children over a widely scattered area. The buses frequently are only half utilized, and they spend considerably longer times picking up those children in order to not make it too long a bus ride for the children.

My guess — from talking with our budget people, it would probably cost twice as much. I would have to look at more specific figures than that.

On the cost of the voluntary plan from the recruitment point of view and from the designing of the program, I think national experience has been that magnets are expensive, not just startup costs, but so often what does attract people to magnet programs is the fact that they are richer in resources, ours certainly have been; richer in the numbers of staff assigned to them.

The other aspect would be the very recruitment of students, which is a time consuming and expensive process, and it must go on every single year.

Q. Was the Seattle School District threatened with legal action if it did not desegregate its schools?

A. Yes, we were. The N.A.A.C.P. had filed a formal complaint with H.E.W., which we were apprised of. The American Civil Liberties Union had informed us that they were intending to take us into court if we did not act on — I believe by a certain date, which, as I recall, it was in the spring.

Q. Of what year?

A. Of '77, and I believe that at the time of their annual meeting, they would take action upon that date if we did not do something to demonstrate our good faith efforts of desegregation.

Q. In a sense, it is obvious that the Seattle School Board went ahead in adopting the Seattle plan. Can you tell us why you did not stand back and wait for litigation? In other words, standing back and wait to become a defendant, and if you can, what similar explanations you heard from other Board members as to their position on that issue?

A. I think a motivating factor for me certainly was to avoid the entanglement of the courts in our school system. All of us have observed the schools throughout the United States who have been under a court order to desegregate, and have talked to school board members from those school districts at national conventions or meetings.

It was my desire, and I believe that of the other Board members, to the extent possible, to retain control over our own school district, to retain some flexibility on what decisions would be made. I think we had the examples of Cleveland, that had to have its budget okayed by a federal judge before any decision could be made.

We felt that we wanted to design a system that defined racial imbalance, recognizing our multi-ethnic population that all of us cherished, the diversity that we do have in our community, and felt that perhaps leaving it to a court to decide would not recognize what we had in Seattle.

We were certainly encouraged by community groups to avoid the lengthy litigation; and I believe the trauma, even, that would come to a community in trying to rehash old problems, to open old wounds, insofar as what acts the School District might or might not commence that aided the desegregation of our schools.

All of these factors work together, I think I would

have to add, too, and I believe I am speaking for all of the Board members when I say we all have accepted desegregation-integration as a primary role of our School District.

It was adopted conclusively by our School District in setting our long-range goals, so that we were acting consistent with what we believe was in the best interests of our children, and the children of Seattle.

Q. You took an oath of office, did you not, when you became a school board member?

MR. MURPHY: Your Honor, when this comes up, can we stipulate to the good faith of the members of the Seattle School Board?

MR. HALL: They have denied in their findings that these School Board members took an oath of office.

THE COURT: I am going to overrule the objection.

Q. (By Mr. Hall) You took an oath of office when you became a School Board member?

A. Yes, sir.

Q. To, among other things, defend the Constitution of the United States and of the State of Washington?

A. Yes, I did.

Q. To what extent was that a material factor in regard to the decision to adopt the Seattle Plan?

A. For me, it was a factor, because after my readings of court cases involving other school districts, particularly in the northern United States, I felt we had a constitutional obligation to desegregate, and I felt an obligation to follow that dictate.

Q. You are familiar with Initiative 350?

* * *

the placement of students, or where students will go to school.

Is that correct? Is that the limitation? If 350 is implemented, as she understands the command of 350?

MR. HALL: I might just say, Your Honor, that counsel on the defendants' side have repeatedly called

upon the School Board to implement 350 without the trauma of this lawsuit.

It is curious to find this last objection to say it requires a legal conclusion when, among other things, the District had asked for a legal conclusion, and has not received it.

THE COURT: Why don't you reframe your question, will you, please?

Q. (By Mr. Hall) What, Mrs. Bleakney, in your experience as a School Board member, would be the effect of Initiative 350 on the schools and students of the District, if the initiative is implemented as you understand its language?

A. As I understand it, the effect would be to dismantle the Seattle Plan, to resegregate the Seattle schools, and to make it extremely difficult if not all but impossible, to desegregate its schools in an educationally sound way.

EXCERPTS FROM TESTIMONY
OF DR. GARY ORFIELD
(Tr., pp. 113-117, 121-122, 124-131)

* * *

A. No. My idea about the work that I could do in the Seattle case was to review the available data to the best of my ability to see whether there was anything about the pattern of ghettoization in Seattle that differentiated it from other cities, where I had done intensive work, or from the national literature on this issue, with which I am very familiar.

So, my object was to find out whether there were distinguishing features about Seattle which would make the information I have from other sources not be applicable here, and I did not find that.

Q. You didn't do any studies of any other Washington cities, or Washington school districts, did you?

A. No.

Q. Were you aware this was a state-wide enactment that is being challenged in this litigation?

A. Yes.

Q. But no one has asked you to do any other studies in connection with any other cities; is that correct?
A. No, I am not here to testify about Washington conditions.
Q. You haven't traveled around the City of Seattle and observed things here personally, have you?
A. No. I have not done a field study in Seattle.
Q. In fact, you just arrived here today, didn't you?
A. Yesterday.
Q. In your statement you referred to the process of ghettoization. Could you give us your definition of ghettoization?
A. Well, traditionally in American cities, northern and western cities where there was not a large black population present — at the time you began to have a significant black population arise in a city, particularly, you have a process of housing segregation begin to take hold, people are concentrated, small clusters of black settlements grow together into a larger ghetto community.

The principal flow of migration into a metropolitan area is into that expanding ghetto, and typically these ghettos expand directly on periphery or in new areas that are a little — outlying their periphery, that again then go together into a continuous area of segregated housing.
Q. And that's your definition of ghettoization, is that correct?
A. Well, that would be a description of what happens. It doesn't explain the whole theory, or observations about why it happens.
Q. Does the process of ghettoization — strike that

The process of ghettoization does not necessarily imply that the area that becomes ghettoized becomes totally saturated with minorities, does it?
A. Typically it moves towards higher and higher segregation levels in the core of the ghetto, and continual expansion on the periphery.
Q. In a given area in a city, 50 percent minority, would

you call that residentially segregated?

A. If an area was 50 percent minority, the probability is very high it is closely adjacent to an almost minority area, and I would say that that was almost inevitably going to be a transitional area.

Q. As to the area you are talking about, would you say an area that is 50 percent minority is residentially segregated?

A. I would say it is in the process of becoming residentially segregated, in all likelihood. There are some exceptions to that, of course.

Q. If an area was 60 percent minority saturated, would you say that is residentially segregated?

A. I would say that in our experience in American cities, such an area, if it was 60 percent black, it would almost invariably become all black, given the operation of the segregated housing market.

Q. So, as I understand your definition, residentially segregated areas include areas that aren't saturated with minorities, not totally saturated, is that correct?

A. I think you have to look at several different kinds of communities. You have those completely segregated where there is almost no white or anglo residents. You have those which are transitional, which are in the process of becoming all completely segregated. You have those which are all white, virtually all white, and you have integrated communities, some stabilized with integrated population, but we have very few of those in the United States that are substantially integrated and stable.

* * *

A. Neighborhood schools, as they are applied to a dual housing market, are not a neutral racial concept.

Q. As I read your statement — however, don't you go on to say that the question is whether or not neighborhood schools — the policy factors that weigh in favor of neighborhood schools should be measured against and overcome those which weigh in favor of achieving racial integration at all costs? Isn't that your

statement there?

A. I don't think I would say it that way.

Q. Perhaps we should just quote it. You say, "The real issue which must be faced is:" — look at page 9 — which should have priority are "neighborhood schools of greater importance even if they guarantee perpetuation of public school segregation."

THE COURT: Your question was, are there not certain advantages to neighborhood schools? Has that been answered?

MR. CARR: I'm satisfied that the witness contradistinguished between neighborhood schools and public school desegregation, and I just wanted to ascertain if that is indeed the statement you made at page 9, or are you suggesting —

A. (By the witness) No, no. I made the statement as it appeared here and the way I would explain my answer to that question — if you want to know — is that the substantial majority of American children do not attend neighborhood schools. Those that do not attend them for a non racial reason are very satisfied with the schools that they do attend and the way they get to them.

Q. You are saying that the substantial majority of American students do not attend neighborhood schools?

A. Fifty-two percent of the children in the country, according to the last statistics that I have seen, are bussed to school.

Q. Does that necessarily mean they don't go to the closest school or next closest school?

A. No, but it is not a walk-in neighborhood school in the sense which is easily accessible, which is usually the reason for giving advantage to the neighborhood schools.

* * *

Q. That was the Office of Policy Planning?

A. Yes, I did look at many things from the Office of Policy Planning.

Q. Did you look at any data containing the residential

segregation information for the year subsequent to 1964?

A. Yes, I was going to answer that, but I didn't have a chance. I have another map here that includes the racial distribution from the 1970 Census, and I did review a publication. This is Mr. Crosetti's affidavit, as a matter of fact, called Population Trends by Race in the Seattle Area from 1900 to 1976, which includes a statement that the black population in the 1970 Census remained heavily concentrated with the Garfield, Madrona area as of 1970, despite rather large increases in certain other communities, and does include information that brings in the latest available Census data.

Q. You mentioned Dr. Tauber's book. What was the reference there?

A. Dr. Tauber's book called Negroes in Cities, it is the classic work on the development of ghettos and their conditions in the 1960s, suggesting that some of the national indexes that have been used for calculating residential segregation may have understated the segregation in Seattle, because they used the wrong unit of analysis. The Census track, as the use of analysis, where you have a relatively small minority population, like Seattle, and to use a relatively large unit like a Census track, you get a statistic that suggests the city is more integrated than it actually is. So, they found when they went to block level segregation data, Seattle's segregation level shot upwards. I am familiar with this kind of situation, because I grew up in Minneapolis, which is very much like Seattle, has a relatively healthy segregated ghetto but which is very thin, especially on the outside. If you take a Census track it doesn't look very segregated at all. If you go down to the block level, it looks quite segregated.

My impression is that is what you have to do in Seattle to get an accurate perception of the degree of residential segregation.

Q. Have you examined segregation reports put out by the Seattle School District?

A. Yes.

Q. What is the relationship between school segregation and residential segregation, and then in followup to that, could you comment on the relationship between school desegregation and residential segregation?

A. I think that school segregation and residential segregation have an interacting dynamic that works in the ghettoization process, and that when you have typically — typically, it is the younger minority family with school children that are most eager to get housing outside the core of the ghetto community. They move into a neighborhood which is typically occupied by older white families that don't have very many young school age children. One of the first things that happens is the school right on the boundary of the ghetto area becomes fairly heavy minority enrollment, even though there aren't many minority families in that neighborhood yet.

I think the natural spread of ghettos in that process, the change of schools, happens before the change of the neighborhood and I think becomes a leading force in changing the neighborhood, because a school becomes predominantly minority long before that neighborhood does, and the white families quit looking at that as a neighborhood they will move in.

We did an analysis of a hundred schools in Los Angeles last summer and we found there were only three or four in the entire city that had remained racially stable. All of them had moved steadily towards more and more minority concentration. So, I think the two things act together, and that the basic problem in resegregation of a neighborhood is not so much that the whites move from the neighborhood, it is that the white families no longer consider moving into that neighborhood, and given the fact in the United States a family moves every six years, it means you have to replace the population of a neighborhood in six years. Whites quit moving into a neighborhood, and it rapidly becomes very, very heavy minority within just a few

years.

Q. Go ahead.

A. The second part of your question is this relationship between different kinds of the segregation plans and residential desegregation or integration, and I think that there is a relationship and we see that — I believe, at least, that the more limited the desegregation plan, the closer it is confined to the ghetto, the more it feeds the ghettoization process because it creates a situation where there will be one layer of schools outside the ghetto where we will have substantial minority population and everything else will be set aside as an all white area.

It means a young white family that is considering residential location has to decide between moving into an area with substantial minority enrollment and an expectation that it will become all minority if it follows a process of the nearby ghetto community, and an area that is all white, and I think that you can only achieve residential — stable residential integration when you can offer them a third choice, which is a school which will probably remain integrated. So, I think that the larger, the more comprehensive a plan is, the greater the chance of presenting rapid ghettoization; and the more limited the plan is, the more it feeds the ghettoization.

Q. Are you aware of any specific examples in the United States where the implementation of desegregation has had the effect of slowing down the ghettoization process?

A. Well, the research in this area is pretty preliminary at this stage, and I wouldn't want to overstate it, but it is true that some of the cities that implemented a citywide desegregation first, like Berkeley and Riverside, California, and Sacramento — especially Berkeley and Sacramento were among the most residentially integrated communities in the country in the 1970 Census.

I am now engaged in a research project in 16 cities

around the country, and the preliminary information we are finding — in the places where broad scale desegregation plans — especially metropolitan ones —

THE COURT: When you say "desegregation," I assume you mean school desegregation?

THE WITNESS: School desegregation.

THE COURT: Would you start again.

A. (By the witness) In the cities that have — in this particular project, we are looking at metropolitan-wide plans, but we are finding that the broader the plan the greater the tendency there is for the school, as a central way of steering people residentially, to recede.

Realtors in a number of cities that we are visiting that have had major plans, including entire metropolitan areas for a number of years, report that the school is almost never mentioned in real estate marketing.

What we are finding in the preliminary return so far is that in areas where there is no plan you find heavy advertising of schools on either side of the line where you have substantial minority schools, and where you have an all white school, the all white schools are advertised in minority areas; the Catholic schools are not. So, I think the research is going to develop in a way that is going to show a powerful relationship between the type of plan and nature of ghettoization process. I wouldn't want to state, you know, that for sure as a fact yet. There is evidence accumulating. It is still in the early stages of investigation.

Q. What is the effect of a voluntary only school desegregation plan on the ghettoization process?

A. Well, typically these plans will bring — in a big city will bring transfer of so many minority students into schools in white areas, almost no transfer of white children into the minority community school systems. So, you have some emptying out of those central city schools. You don't have much effect on whites. One of the problems of these plans, magnet school plans, is

sometimes they destabilize integrated neighborhoods, because many of the white students who go into a magnet school go out of an integrated neighborhood. We found this very true in our investigation of Los Angeles.

Many of the whites left neighborhoods which were integrated, and thereby made those neighborhoods more segregated with that transfer.

I believe there is some evidence of the same phenomenon in other cities. I have heard the same thing is true in Milwaukee. There are a great many white transferring to magnet schools out of integrated areas that might tend to feed the ghettoization process.

Q. All right. One final housekeeping item. Could you just briefly summarize the testimony you have offered in your statement today?

A. Well, I think that I would say that there is no probability of achieving substantial desegregation which is lasting and comprehensive for minority children in a big city without mandatory reassignment of students; that there is — that the segregated housing market for blacks is still very powerful in this country.

We don't have any substantial evidence that it is changing in any fundamental way, and that we should design school desegregation plans that have a broad reach, and that also try to support the development of larger and larger areas of stable residential integration.

EXCERPTS FROM TESTIMONY OF CHERYL BLEAKNEY

(Tr., pp. 163, 173, 176-178, 181-183, 188-191)

* * *

Q. At page 22, line 16, you make the statement that because whole neighborhoods moved together, the race of the individual child is not significant in determining who will move?

A. Yes.

Q. Is not the race of an individual child considered in

deciding whether or not he can move into, say, one of the option programs under the Seattle Plan?

A. Yes, that's true. That would be in any voluntary program, I assume.

Q. Any voluntary option, the decision of whether to allow that child to get into that program is based on his race?

A. That is generally the object of a voluntary program, is to entice children of the proper race to go in the proper direction, proper race being the one that would aid integration.

* * *

THE WITNESS: Are you asking for an opinion by me of whether I think having options — yes, I believe it has. I believe by allowing some choice within the program, we have encouraged parents to take advantage of some special programs.

We have found the greatest movement has been among those schools, or between those schools which are paired and triaded, where its children would have been forced to move anyway, and I think some 39% of our volunteers have come from those particular schools.

* * *

A. I personally feel that segregated education is unequal and poor education. I believe that both for minority children and for white children.

As I say, I recognize that our plan does not address majority isolation. I think we need to.

Q. What are the consequences of segregated education insofar as you have learned in studying this issue?

THE COURT: Maybe you have asked the question I was going to ask, but you said that you felt it was unequal and poor education. What I would like to know is why you feel that way?

THE WITNESS: Okay. I think our children need to grow up in a world that is pluralistic. Probably the best training for growing up in that world is to mix in easy relationships with children of many races and many backgrounds.

I believe that there are some definite advantages for minority children, principally because they tend to go on to institutions which are controlled by the majority, which this country is composed of, white people. If they tend to go to college it will be to predominantly white colleges, to work in white institutions, and I think for them the best preparation and the best success in those institutions will come if they have had relationships with white students.

I think there is a relationship which can be shown between poverty and minority races, a historical one which nobody wants to belabor right now.

I believe that where minority students are isolated and are frequently poor, they tend to receive the least attention in majority institutions; they tend not to be the squeaky wheels that get the oil, and for that reason I think there are advantages in desegregation.

There have been national studies that would seem to indicate that minority children do achieve better when placed in an integrated setting, and that majority children's achievement levels do not decline. It is for these multiple reasons that I believe in integrated education.

* * *

MR. HALL: Section three of Initiative 350. I was reading directly from Section three of Initiative 350, and the examination — prior testimony was drawn from a letter, statement of Mr. Johns, Exhibit 24.

MR. MURPHY: Before she answers, I would like to know if she is familiar with neighborhood school policies of every school district in the State of Washington.

MR. HALL: I asked if she was familiar with any.

THE COURT: The question was confined to her knowledge. This was the section —

MR. HALL: Three.

THE COURT: Three of the Initiative.

A. (By the witness) I am not familiar with any neighborhood school policies of school districts. I had felt that the lawsuit decided by the State Supreme Court, Citizens Against Mandatory bussing, Against Seattle School District, had pretty well established it was up to local school districts where they assigned students, until Initiative 350 was drafted and I had seen the first copy of it. I know of no other such written prohibition. That doesn't mean they don't exist. I just didn't know of them.

THE COURT: I guess your question was: Are you familiar with any other school districts that have taken advantage or used any one of these devices for the purpose of integration?

MR. HALL: I think my question was: Was she familiar with any instance where, in the context of a requirement that students be assigned to their neighborhood school, but the School District was prohibited from using these six or seven tools that that prohibition related in any way to anything other than race, efforts on the part of the prohibition to limit the ability of that district to desegregate its schools?

THE COURT: I tell you, that question is really difficult to me.

THE WITNESS: I am having trouble with it.

THE COURT: I am not saying it is too difficult for you, but it is too difficult for me.

Q. (By Mr. Hall) To what extent is it possible to desegregate the Seattle Schools if you are prohibited from using those seven tools listed in Section three of Initiative 350, and on the other hand, required to assign students to their nearest or next nearest school?

A. I consider it an impossible task, particularly within any context of the educational quality.

Q. In following the Initiative 350 campaign and arguments made by both proponents and opponents of the initiative, to what extent were these seven schools discussed in the context other than desegregation?

THE COURT: That is where she was present?

MR. HALL: Where she was present, that she knows of personally.

A. (By the witness) In any kind of spoken debates, I would call reference to the fact that these prohibitions would not hurt 99 percent of the School Districts in the State of Washington, would not even affect 99 percent of the School Districts in the State of Washington, which I took to mean it was aimed at the three percent of the one percent, which we were one of three.

* * *

Q. You testified in response to a question from counsel that you — and to your knowledge all of the School Board members preferred voluntary methods of desegregating schools, or a voluntary plan, and yet the School Board did not adopt the voluntary plan. Why?

A. Well, the total voluntary plan, I believe, had been written off at the time we adopted our resolutions. There was a general recognition that if we had a voluntary plan it would at least have to have a mandatory backup to it, similar to that that existed in the middle school program. When it came to a discussion of what were essentially the two types of plans the Seattle School District could adopt, it was essentially between a fixed assignment plan, where the children were assigned to a specific school and it could have voluntary elements within it or it could be a voluntary first plan with some sort of mandatory back-up to the voluntary first plan.

Do you want me to go on into the reasoning —

Q. If that explains your reason why, that is fine. If you haven't finished, I wish you would explain it.

A. The reason why we opted for the fixed assignment rather than the voluntary first one, is, I think, most of us would have preferred to give the community a chance, let it try it, see if we couldn't get enough students. I think we all knew that we were not going to be able to get enough students to do it totally voluntarily. We knew we would have to then reassign some students. They would have to be assigned proba-

bly as individuals, and designated on the basis of their race to fill buildings that lacked enough of a particular race to be designated. It meant upheaval every year. We had had the experience of the middle schools which was a relatively small and narrow area and affected only three or four grades. We had the experience there of seeing what had to be done, where each year you go through a recruiting phase and if you don't get the number of students you have to go out and randomly pick children and find them to go to that other school. I think a number of us had been struck with the humaneness of the pairing or triading program, because it did move neighborhoods of children together. It let parents know ahead of time what schools children were going to have.

They had, in essence, at the elementary level two elementary levels, one for early elementary and another for later elementary, and that there would be logical feeder patterns the children would follow through in, so there would be continuity in a child's life; that a parent who moved into an area had some sense of his or her child would go to school, could participate in that school, and help develop the program there with the logical expectation that the child would follow through in a certain pattern. There was no way we could use that type of a plan as a backup to a voluntary first plan, because you can't control where volunteers are going to go and it would be impossible to go through a recruitment phase to get enough volunteers, and then every year have to go through a process of trying to design a pair or a triad that would somehow meet any kind of racial goals afterwards.

It was with that realization that I believe the majority of the Board came to the conclusion that in balancing the aspects of both types of plans and what would be best in the long run for the city, by doing a pairs and triad, we would be producing a plan that had more of the elements that existed in our criteria, and that would more nearly satisfy the things we were

hearing the community ask for.

EXCERPTS FROM TESTIMONY
OF DR. MICHAEL STOLEE
(Tr., pp. 263-266)

* * *

I made no attempt to compare the middle schools or junior high schools or senior high schools. I did elementary only, and where I was not sure of the data, I omitted the schools. That is why I say this is a conservative statement.

For example, the 1977 data do not include any data for the Madrona School, and so I did not include that school in my computation. Perhaps, if I had had data, it may have been an additional school, and effect some other schools.

Ms. GREEN: For the record, what Dr. Stolee has referred to as Exhibit R is actually Exhibit 90, Plaintiff's Exhibit 90.

THE COURT: Exhibit 90 in this case?

THE COURT: In this case, yes, Your Honor.

Q. Dr. Stolee, in your opinion as an expert, is there any educationally sound reasons for having a student attend a neighborhood school?

A. I can think of none. The neighborhood is a concept that we really didn't hear too much about until desegregation started. It is interesting that the school systems for many years have assigned children to school outside of their immediate neighborhood for many special reasons. If it is educationally handicapped or special programs or gifted or talented or special occupational or preparatory programs, they assign them outside the neighborhood.

The neighborhood, I have found, is really no longer too important in our mobile society; that people do not seem to do their shopping, working, worshipping and recreation in the neighborhoods as they did before we were that mobile, and the result is that there really

is no reason on the face of it for an educational justification for attending the school closest to home.

Q. Are there other experts in the field of education who would agree with your opinion?

A. Yes.

Q. Can you name some of those, please?

A. I have discussed this matter with Gordon Foster, with John Finger, with a number of the people on the staffs of various segregation consulting centers who have — I don't know if they have all have been declared experts by courts, but I refer to —

MR. CARR: Well, Your Honor, I guess I am a little slow at the switch. I am going to have to interpose an objection, it seems to me, and ask that the question and answer given be stricken. It seems to me — one thing, he is an expert. He is an expert here who is telling us what his opinion is, and secondly, it is quite obvious from the way he has responded to the question, it was hearsay. So, on that basis, I would ask the witness be restricted to giving his opinions, what his opinions are, and not those of others.

THE COURT: I am going to sustain the objection. I know an expert can consult with others and refer to periodicals and books and so forth. I really would like to hear his opinion here in court today.

Q. (By Ms. Green) Dr. Stolee, what do the words "forced bussing" mean to you?

A. Forced bussing is another term we never heard of until desegregation began. To me it means — it is a code word, code term, I should say, meaning school desegregation. It means parents or others who are opposed to the use of assigning children to a school beyond walking distance from their homes as a method of achieving desegregation of schools.

It is a puzzling term, in that until the desegregation began parents didn't fight to keep their children off buses.

During my tenure as superintendent of schools, every disagreement I had with parents concerning

buses was the parents who objected to our finding that the child's home was 1.95 miles from the school, and the parent insisted it was over 2 miles and therefore the child had the right to ride that bus.

Q. Approximately how many desegregation plans have you prepared in your career?

A. I would have to say somewhere between 90 and 100.

Q. Dr. Solee, based on your expertise as a desegregation planning expert, your knowledge of the residential character of Seattle, and the tools prohibited by Section 3 of the Initiative 350, within the nearest or next nearest school concept, could you prepare a desegregation plan that would meaningfully desegregate the Seattle Public Schools?

A. I do not believe that either I or anyone else could prepare a meaningful desgregation plan for Seattle Public Schools, given the prohibitions of Initiative 350.

EXCERPTS FROM TESTIMONY
OF DR. CHRISTINE ROSSELL
(Tr., pp. 348-351)

* * *

in 1970, which showed a majority of whites claimed they would be willing to bus their children up to two hours to send them to a superior white school.

So, parents will claim they are willing to bus their kids for educational advantages, but the evidence suggests that there is a certain amount of opposition to change that occurs that may be labeled just laziness and gets redefined as other political factors become more salient.

Q. There are lots and lots of reasons why parents don't want to have their students reassigned out of what is otherwise their neighborhood school, aren't there?

A. I suspect that there are lots of reasons that parents will claim, and may in fact actually believe.

Q. You talk about some of those reasons on page 15, don't you? Why don't you just turn to the next page, again, up in the middle of the page.

You say: "We know from the experience of voluntary majority to minority bussing programs that such programs are much more successful at the secondary level than at the elementary level, where parents' concern with their children's safety is greater and their children's participation in curriculum decisions less."

That is one of the other factors that parents have in their mind, isn't it, the safety of their children?

A. Yes. Let me point out a majority to minority bussing program is a desegregation program.

Q. I realize that.

A. So that parents typically don't worry about their children's safety, unless it is a part of a desegregation program. All of a sudden that program becomes a reality, and they redefine it as an issue of safety, rather than calling it what it is.

Q. Doctor, didn't you tell me this morning that, by safety, one of the things you meant was that parents get nervous when their children are riding the bus because they are afraid it will go in the ditch?

A. That's true. It occurs when —

Q. Didn't you say —

THE COURT: Let her finish.

A. There is an interaction between the desegregation and other factors. Parents don't worry about bussing as a safety problem until they find out that the busses go into a black neighborhood. Then safety becomes an issue and they worry about things like bus accidents, which were never a concern before desegregation.

It is fascinating, the increase in preoccupation with the safety of the busses that occurs when a desegregation plan is implemented.

The ability of people to rationalize their racial fears is quite amazing.

Q. Didn't you just this morning specifically tell me parents got concerned about the safety, even in a 100% white school district —

A. I will explain to you again what I said.

Q. Didn't you tell me this morning, Dr. Rossell?

A. No. What I said is that there is an interaction between class and race and transportation, and I will explain it to you again.

A school district in which — which is completely white, in which middle class parents are asked to bus their children to a poor white neighborhood, there will also be opposition to being bussed to a poor neighborhood.

Middleclass parents do object to being bussed to lowerclass neighborhoods, so there is also class prejudice evidenced here, class and race prejudice, and you may recall I pointed out to you that white parents will be more fearful of bussing their child into a poor black neighborhood than they are about bussing their child into a poor white neighborhood, so that their class is an important factor there.

EXCERPTS FROM TESTIMONY
OF JEROME PAGE
(Tr., pp. 450-454)

* * *

A. This is a joint statement by several people from the central area, black community leaders who were making a statement of their concern in relationship to the Initiative 350, and the school plan, the Seattle School Plan.

Q. Are you a signatory to that statement, Mr. Page?

A. Yes, I am.

Q. Your signature appears on page 3, does it, of the statement?

A. Yes, it does.

Q. Were you present, sir, when the other six persons signed that statement?

A. Yes, I was.

Q. Mr. Page, to the best of your knowledge and belief, are the contents of that statement true and accurate?

A. Yes, they are.

Q. Can you briefly summarize for the Court the gist of that joint statement?

A. In general, it identifies the black community support of the Seattle Plan, as it was designed in 1977, and as it has been implemented the first year, and now the plan for the second year in '78 and '79, and it identifies the support.

One of the major reasons for that support is the equitableness of the desegregation plan.

Historically, for the last 10 or 15 years, with the Seattle School Board and the Seattle school system was delving into desegregation, the black community carried the total burden of that desegregation.

It was sort of a one-way street. We bussed out of the central area, and that is the basis of equitability in the eyes of the black community.

If there is to be desegregation plan, it must be shared equally by the community, and it was our concern that, if initiative 350 is to be implemented, then that would mean there would be a total retrenchment, and in our opinion, the black community would no longer carry that burden of voluntarily desegregating the schools.

It has just been too long we have maintained that; and also, if 350 is implemented, this would totally deny the black community the political process to be involved in developing and directly what we consider things in our best interest in this community, because it would then mandate that the school system be set up in such a way that the only bussing or the only desegregation can be maintained through the nearest or the next nearest school, which would, in essence, resegregate the school system, so it would deny us the opportunity to participate in the political process of our community here in Seattle.

Q. Mr. Page, do you recognize present in the courtroom this morning, seated behind me, and going from your left to right, three gentlemen?

A. Yes, I do.

Q. Who are they, please, beginning from your left to your right?

A. Mr. Lacey Steele, Mr. Meredith Mathews, and Rev. Fred Stevens.

MR. NEUKOM: Your Honor, for the record, the other three signatories of the statement, in the order in which their names appear, Rev. Samuel B. McKinney, Mr. Larry Gossett, and Charles Z. Smith, have commitments which has made it impossible for them to be here this morning. If necessary, they can be here later in these proceedings.

THE COURT: All right.

MR. NEUKOM: I would move the admission of Exhibit 94.

THE COURT: Any objection?

MR. MURPHY: None.

THE COURT: 94 will be admitted.

I would like to ask the witness one question.

You said with the implementation of 350, the black community would no longer carry that burden. You also spoke about in the past you felt the black community carried the burden because it was bussing out.

Are you saying that, with 350, you feel, or it was your opinion that the black community would no longer be willing to do so?

THE WITNESS: I believe so. I think if 350 is made the law of the land, then it would completely wipe out the black community's faith in the political system they have been a part of in trying to develop an equitable system, and it would say, then, turning the clock back 10 or 15 years, in which it would say, "if you feel you want any kind of desegregated system, then you carry that burden."

I think the black community, for the large part, would say, "that doesn't make sense. This is 1979. We shouldn't have to carry the burden as we did 10, 15 years ago."

THE COURT: I see. All right. Mr. Neukom, any further questions?

MR. NEUKOM: Yes.

Q. I don't think I asked the witness, and I will now, whether he adopts this statement, Exhibit 94, as his own statement?

A. I am sorry?

THE COURT: Would you repeat the question?

Q. (By Mr. Neukom) Mr. Page, do you accept this statement, Exhibit 94, as your statement?

A. Yes, I do.

THE COURT: You signed it, did you not?

THE WITNESS: Yes, I did.

THE COURT: You still subscribe to it?

THE WITNESS: Yes, I do.

EXCERPTS FROM TESTIMONY OF DR. FRANK B. BROUILLET
(Tr., pp. 569-571)

* * *

MR. HALL: Yes. Would you mind handing the witness Exhibit 2, please?

Q. Page 3 of that exhibit, Dr. Brouillet, let's walk through just briefly a couple of the sections.

Section 1 says, in part, that a school district cannot assign students to other than their nearest, or next nearest school, except in the following situations:

Exception 1 is if a student requires special education, care or guidance, he may be assigned and transported to the school offering courses and facilities for such special education, care or guidance.

In my question, I want you to exclude all of those kinds of children, and bussing for all those kinds of children, for which you are aware.

Next, the second exception, if there are health or safety hazards, either natural or manmade, or physical barriers, or obstacles, either natural or manmade, between the student's place of residence and the nearest or next nearest school.

I want you to exclude all transportation for those kinds of students in my question.

Third, if the school nearest or next nearest to his place of residence is unfit or inadequate because of overcrowding, unsafe conditions, or lack of physical facilities.

I want you to exclude all of that from the bussing about which you have knowledge, the bussing, mandatory bussing, to other than nearest or next nearest schools.

I think the fifth would be perhaps voluntary cooperative programs, which might be contemplated by Section 5 of the initiative.

Now, if you exclude from all of the bussing in the state, the three hundred or four hundred thousand students bussed every day in the state, and exclude from all of that these categories of students, are you aware of any other forced bussing in the state, other than that which relates to desegregation?

A. No.

* * *

EXCERPTS FROM TESTIMONY
OF ROBERT DORSE
(Tr., pp. 675-680)

* * *

Turning to the back page of Exhibit 62, to the paragraph that Mr. Hall referred to earlier, paragraph 4 where you say — or the position paper of CiVIC says: "We will not argue whether the Seattle School Board has the authority to implement the proposed mandatory bussing program."

Now, you are familiar, are you not, Mr. Dorse, with the fact that the school districts in the State of Washington have historically had the power to assign students for the purpose of achieving racial balance; that is, prior to initiative 350, you were aware of that fact, weren't you?

A. I believe I am aware of that fact, yes.

Q. And you were familiar with the case of the Citizens

Against Mandatory Bussing versus Pulmisson, where the State Supreme Court declared that school boards did have such power?

A. I am not familiar with that case, because I wasn't involved in school affairs at that time. My children were too small.

Q. Was that case not discussed by members of your group in talking about whether or not the school board did have the power to create the Seattle Plan?

A. That might have been but not too much by me. My efforts were in decidedly other efforts, but I am sure it probably was discussed by our legal and legislative committees.

Q. Now, you indicated, Mr. Dorse, that you have children in school. So, I assume that you are familiar with the broad general powers that school boards have in other aspects of running schools, that is, you know, for example, that school boards have the power to determine who to hire and promote and where to assign teachers? You knew that?

A. Yes.

Q. That the school boards had that power and the power to pay teachers?

A. Yes.

Q. And to make curriculum decisions, basic decisions about education of the children?

A. Yes; somewhat as a board of directors that is responsible to a group of stockholders.

Q. And to determine where facilities will be put and maintained and built and removed. Powers such as that have always been historically part of the power of school boards in this state, have they not?

A. Yes.

Q. Now, I take it — would it be a fair statement to say that CiVIC had no objection to the way in which the Seattle School Board exercised all of the other powers that we have been describing, that is, hiring and firing, teachers, promoting them, deciding curriculum, school placement, facilities — you have no bone to pick with

any of those decisions, do you?

A. Not necessarily so.

Q. Well, did you attempt in Initiative 350 to restrict the powers of school boards in any way other than in — with respect to the power to assign students for achieving racial balance by mandatory means?

MR. OLIVER: Objection. That is a legal conclusion. It is what this lawsuit is all about.

THE COURT: I will accept an answer as his opinion. So, I will overrule the objection.

A. (By the witness) The main purpose, as far as I am concerned personally — I cannot speak for the organization — is that there were many — not many, but there were five primary reasons why 350 —

Q. The question, Mr. Dorse —

A. Then the answer is no.

Q. The only way in which you wanted to remove the power that local school boards historically held, was the power to assign students by mandatory means for the purpose of achieving racial balance?

A. No, that is not correct. It is for any reason.

Q. To assign them for any reason?

A. Yes. As an example, for socio-economic reasons, which could be completely other than race.

Q. Are you saying, if the school board were to decide for, say, socio-economic reasons that they would achieve the same thing that the Seattle plan is doing, that would be all right?

A. No. I am saying if they embarked upon a program of mandatory bussing, for purposes of achieving some socio-economic balance, I would be as equally opposed to that, without any regard to race or what-have-you.

Q. I see. Other than that for social-economic reasons and race reasons, that is the only —

A. No. I would have to answer no again.

Q. What else?

A. Since I have gotten into this issue, I am surprised at how many reasons supporters have come up with that school boards might decide on using forced bussing as

a tool.

Q. So, it would be fair to say, then, that you have wanted to take away the historic powers of school boards in this state to assign students for socio-economic reasons and racial reasons and perhaps others, but in no other way affect the powers of school boards historically held by them?

A. From the standpoint of an all encompassing reason, yes. The purpose was to stop the mandatory bussing of students.

MR. NOLAND: That's all the questions I have.

EXCERPTS FROM TESTIMONY
OF BEN CALEY
(Tr., pp. 735-739)

* * *

In fact, I was assuming you were one of the parents who had no racial animus in your decision-making process, where your children are going.

I will still assume that, but ask you if you don't fairly concede that, in our society, there is some racism, is there not?

A. I think yes.

Q. Even in Seattle?

There are some parents who just don't want their kids to be mixing with kids of other races?

Some?

A. Bound to be, bound to be some, yes.

Q. And that goes for white people who don't want their kids to go to schools with black children, and black parents who don't want their children to go to school with white children?

A. Yes.

Q. Are they afraid of the other race?

A. I suppose.

Q. Or other races. It is common knowledge, isn't it that there is a strain of racism in this country and in this city?

MR. OLIVER: I would object to that, "common

knowledge," Your Honor. I don't know where we are going.

THE COURT: Let me say this to counsel, I am going to say this very quickly: There is a local rule that you stand when you address the Court. If you have got something to say to me, I will hear it.

MR. OLIVER: I object. He is calling for speculation now. I don't really see the relevance.

THE COURT: Well, I am going to let him answer on the basis of his own knowledge only, not that he is an expert on what exists in Seattle; but if you can answer from your own knowledge as to whether there is a strain of racism — did you say — in the City of Seattle, an element of racism.

A. (By the witness) I didn't — would you please repeat the question? Are you referring to — are we talking about the whole country, or are we talking about the country or school system?

Q. Let me — maybe it is too much to ask about the country as a whole, but in Seattle, you have talked with a lot of people about education and where they send their kids to school, have you not?

A. Yes.

Q. You have been a leader in this whole movement to limit the authority of the school board to assign students. So, certainly in the course of that you have talked to a lot of people?

A. Yes.

Q. And have you not had people say to you things that leave you with no doubt, but that they really are just afraid of other races, and that is a motivating factor for them?

MR. OLIVER: That is hearsay. Excuse me, that is hearsay.

THE COURT: I am going to overrule it on hearsay, because I think his state of mind is an exception to the hearsay rule.

Is there a question before you that you understand?

Q. (By Mr. Noland) Let me rephrase the question.

A. During my conversations with people, during the process of gathering signatures and all of this, I found that the element of racism almost totally was non existent.

I felt that it was not even a matter of consideration, in terms of the reason for the passage of the initiative or the reasons that people may have decided one way or another to vote for the initiative.

When I went to grade school and high school here, I felt that there was no problem in regard to this; that the friends that I had at Garfield and Franklin and Cleveland and Roosevelt and Ballard all got along equally, equally as well, and there was no problem.

Q. (By Mr. Noland) I am really not asking you what your view is about even the majority sentiments. I am just going to go back to what you said earlier. I think that you forthrightly conceded that there are people, even here in Seattle, who are afraid of the other race and they just don't want their kids to be in school with other races?

A. Yes.

Q. Now, those parents — if you have a neighborhood school policy, those parents, then, have the right, do they not, to select an area of a city that will result in, insofar as possible, isolating their children from the contacts that they fear with other races? That is, in this city there exists schools which are overwhelmingly either black or white?

A. Yes.

EXCERPTS FROM TESTIMONY
OF SAM FRANKLIN
(Tr., pp. 1163, 1169, 1177, 1178, 1185)

* * *

Q. We had briefly talked about the series of letters that are attached to your affidavit. Were those considered?

A. Definitely. This was very critical in designing an initia-

tive measure that would be flexible enough to accommodate the various requirements and needs of school districts across the state, taking into account we had metropolitan areas, we had rural districts, we had suburban districts that were growing very fast, with very fast movement, changes in the population and demographics.

So we attempted to get as much input as we could into the design of the initiative, realizing to some extent the language, when it became finalized, would be carved in stone and not subject to any immediate change or the usual legislative compromises and flexibility by amendment. * * *

I recall discussing with you the fact that the term "special education" had to be broad enough to encompass, not just mental retardation and the grossly handicapped, physically handicapped children, but also other problems like — including disciplinary problems, and that is why the emotionally handicapped came in.

I do not recall specifically at what point that language was discussed or when that language was finalized, but it was after analysis by you of the federal statutes, and the provisions in RCW 28(a), which both of us had done, and trying to make this as broad and flexible as possible.

* * *

Q. Attached to your affidavit and statement are many letters that were sent out to school districts around the state.

Was the intention through these letters to make sure that the restrictions on assignments to the nearest and next nearest school not get in the way of what you saw as valid educational programs throughout the state?

A. That's correct.

* * *

Q. Now, you have acknowledged that there is racial prejudice out there some place in the state, because, for instance, CiVIC kicked out one person who expressed

some racial prejudice. Under Initiative 350, isn't it true a person carrying racial prejudice could insist on attending his nearest or next nearest school for racially motivated reasons?

A. I am sure he could.

EXCERPTS FROM TESTIMONY
OF DR. JAMES MORISHIMA
(Tr., pp. 1298-1299)

* * *

Q. Do you, based upon your educational and professional background and experience, have an opinion as to whether or not racial bias or racial motivation is a factor in the white community's opposition to bussing for desegregation?

A. Yes, I do.

Q. What is that conclusion?

A. The conclusion is that racial bias did enter into the equation.

MR. NOLAND: Thank you. That's all I have.

* * *

EXCERPTS FROM TESTIMONY
OF DAVID ARMOR
(Tr., pp. 1715-1716)

* * *

Were these studies specifically designed — did they probe for the existence of any other reasons, such as racial bias?

A. Well, I did a measure of racial bias, which I might — which I am measuring indirectly — perhaps in the most relevant way for a school case, is whether they objected to minority students being assigned in large numbers to their own neighborhood schools. I mean, that was my measure of racial bias as relative to the school situation, and that was the measure I used to make a judgment; but whether racial bias is the main factor or whether perhaps other issues are the main

factors in causing whites to either oppose mandatory busing or to say that they would withdraw their child from the school district if they were mandatorily reassigned —

Q. But it was the conclusion stated in your August, '78, paper that whites don't object to minority students being assigned to their schools?

A. I didn't say all whites. I want to make that perfectly clear. There is a fraction — I think in L.A. it was about 20 percent, and there is a fraction in any study of whites' attitudes towards race. Even in the last few years, there is a fraction of whites that are racially intolerant and objected to being reassigned on racial grounds.

THE COURT: You spoke about a figure in the Los Angeles area. Was that — did you say that about 20 percent of the white parents would object to having minority students transported into the so-called white schools?

THE WITNESS: Into their child's present neighborhood school.

THE COURT: I see.

A. (continued) Now, I would call that group — now, there may be — to be fair on this, there may be general objections to busing that are not directly related to racial tolerance, but given the history of race relations and given where we are on this issue, I would — operationally I would see no problem in viewing that group as a group with possibly racial bias feelings and objecting on racial grounds, not on mandatory reassignment grounds.

EXHIBIT 6

PREFILED WITNESS STATEMENT OF RICHARD ALEXANDER

I am the most senior member of the Seattle School Board, having held office since December 1969, and since December 1973 have been the current President of the

Board. I have personal knowledge of the facts stated herein and I am competent to testify thereto.

I have read the "Facts Relating to the Seattle School District" contained in Plaintiffs' Memorandum herein dated December 5, 1978 at pages 4-20. I am personally familiar with such facts, believe they are stated accurately, and incorporate the recital of those facts in this affidavit as if they were fully set forth in this affidavit.

The Seattle School Board's desegregation goals for 1975-76 and 1976-77 (adopted unanimously by the same Board as presently exists) provided that voluntary desegregation strategies would be emphasized, with mandatory strategies to be invoked by the Board if necessary as a backup.

I recall substantial publicity around the time the Board adopted its June 1977 definition of racial imbalance (and began a public involvement process to culminate in a December 1977 choice of desegregation strategies), to the effect that to meet the goal of eliminating racial imbalance desegregation strategies would of necessity include some mandatory transfer elements. I believe the Board realized and communicated at that time to the public that the goal of eliminating racial imbalance could not be achieved through entirely voluntary means.

The District's long experience with voluntary desegregation measures, and the data compiled over the years and during 1977, made it clear to everyone familiar with the school system that, whatever our preference, desegregation could not be achieved through solely voluntary means.

The Seattle School Board consequently adopted a plan to desegregate Seattle's schools because of (a) community support, (b) the Board's longstanding commitment to desegregation for educational and legal reasons (to provide opportunities for all children to experience significant contact with children of other backgrounds) and (c) the Board's determination to retain control of the school system (rather than risk losing control to the courts, as have many other school districts).

II. FACTS RELATING TO THE SEATTLE SCHOOL DISTRICT[1]

For over three decades, and especially since the famous *Brown* decisions of 1954[2] and 1955,[3] the Seattle School District (sometimes called the "District" herein) has moved toward the racial desegregation of its schools. These decades of sometimes timid, other times determined, but almost always controversial action by the District culminated in the Board action which led to the promulgation of Initiative 350 and this lawsuit.

Lawsuits against the District have been common as the District felt its way along the uneasy path toward integrated education. They are of public record. Some of the more prominent include:

—*Campbell et al. v. Seattle School District No. 1*, Cause No. 9171 before the United States District Court for the Western District of Washington (suit to require "an acceptable plan to achieve meaningful racial balance in the public schools throughout Seattle * * *" (Complaint, page 6) filed on about August 28, 1970 and dismissed October 12, 1972);

—*State ex rel. Citizens Against Mandatory Bussing v. Brooks*, ("*CAMB I*"), 80 Wn.2d 121, 492 P.2d 536 (1972) (concerning the sufficiency of a petition to recall School Board members who voted for a controversial multi-racial middle school and mandatory busing program; the court in part held,

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[1]As of the date of this Memorandum, there are three school district plaintiffs—Seattle School District No. 1 of King County, Washington; Tacoma School District No. 10 of Pierce County, Washington and Pasco School District No. 1 of Franklin County, Washington. The latter two districts were authorized by their Boards of Directors to enter this lawsuit only within the last week. By that time, much of this Memorandum had been prepared. Rather than await information from those districts for inclusion in this document, it was decided to proceed with its preparation and filing. Information as to the remaining Districts will be added to this case at a later date.

[2]*Brown v. Board of Education of Topeka*, 347 U.S. 483, 98 L.Ed. 873, 74 S.Ct. 686 (1954) ("Brown I").

[3]*Brown v. Board of Education of Topeka*, 349 U.S. 294, 99 L.Ed. 1083, 75 S.Ct. 753 (1955) ("Brown II").

at least within the context of the case, that the distinction between *de jure* and *de facto* segregation "is of no consequence." 80 Wn.2d at 128);

—*Citizens Against Mandatory Bussing v. Palmason*, ("*CAMB II*"), 80 Wn.2d 445, 495 P.2d 657, 50 A.L.R. 3d 1076 (1972) (a companion case to *CAMB I* — except here plaintiffs unsuccessfully asserted, to a unanimous court, a "right" to have their children attend neighborhood schools as a means of defeating the District's modest middle school mandatory transfer plan. That plan was held to be "a proper exercise of the board's discretionary powers." 80 Wn.2d at 459. The court held "it was the duty of the school board to act in the best interests of the majority of students" and the middle school plan was consistent with the board's discharge of that duty. 80 Wn.2d at 457);

—*Dawson v. Troxel*, 17 Wn.App. 129, 561 P.2d 694 (1977) (suit unsuccessfully challenging the District's policy denying majority race (white) children the option of transferring out of the Garfield High School attendance area; this policy was designed to promote the desegregation of Garfield. Here too, the court inferred a duty of the District to act to complete a "desegregation process [in] no longer than is absolutely necessary." 17 Wn.2d App. at 133);

—*Coney v. Seattle School District No. 1*, Civil Action No. C75-650M before the United States District Court for the Western District of Washington (concerning the same policy challenged in *Dawson* and demanding that Garfield be closed, school boundaries be changed to require all Seattle high schools to have the same ratio of black and white students and that the neighboring school districts be drawn into a "regional desegregation plan." Complaint, pages 16-17, filed about September 9, 1975 and dismissed May 6, 1977);

—*Simmons v. Seattle School District No. 1*, Civil Action No. C76-134V consolidated with

—*Nakamura v. Seattle School District No. 1*, Civil Action No. C76-135V before the United States District Court for the Western District of Washington (these two cases also involved the District's

Garfield transfer policies and sought roughly the same relief as *Coney*. *Simmons* and *Nakamura* were filed about February 27, 1976. They were dismissed July 29, 1977);

—Numerous complaints have been filed with the Office for Civil Rights ("OCR") of the United States Department of Health, Education and Welfare ("HEW"). Some of these complaints involved teacher assignments, bilingual education requirements ("*Lau*" compliance — named after a related lawsuit (*Lau v. Nichols*, 414 U.S. 563, 39 L.Ed.2d 1, 94 S.Ct. at 786 (1974)) in which the District was not a party) and most significantly for the instant litigation, the National Association for the Advancement of Colored People ("NAACP") complaint filed with OCR on April 22, 1977 (challenging the segregation of the Seattle Public Schools and calling upon OCR to terminate all federal funding to the District until it is desegregated. This complaint was settled by a Memorandum of Agreement between OCR and the District on June 7-8, 1978 which bound the District to implementation of The Seattle Plan); *see generally*, Affidavit of Marlaina Kiner and attached exhibits which are all in Exhibit I to plaintiffs' Complaint; the NAACP complaint is also attached as Exhibit A to the affidavit of Cheryl Bleakney.

—*Roe, et al. v. Seattle School District No. 1* ("Roe I"), King County Superior Court Cause No. 838291, and *Roe, et al. v. Seattle School District No. 1* ("Roe II"), King County Superior Court Cause No. 839530, filed about December 13, 1977 and January 13, 1978, respectively (these cases challenged and sought to enjoin the District's adoption and implementation of The Seattle Plan. The cases were consolidated and dismissed pursuant to the District's motion for summary judgment. They are presently on appeal to the Washington State Supreme Court);

—*Velikanje, et al. v. Seattle School District No. 1 and Washington State Department of Ecology*, Thurston County Superior Court of Washington Cause No. 78-2-00066-2, filed in July 1978 (seeks to enjoin operation of The Seattle Plan on the theory

that the District did not prepare an environmental impact statement for it. Trial of this matter is presently set for April 26, 1979).

There was also a disruptive — but unsuccessful — effort to recall several Board members who voted for the middle school and mandatory busing plan of 1971-72. *See State ex rel. Citizens Against Mandatory Bussing v. Brooks, supra.* For a few years thereafter, the District's resolve to proceed with desegregation of its school wavered.

In 1975, for the first time in its history, Seattle voters failed to pass the District's special excess levy which would have provided 42 percent of the District's 1975-76 operating budget. As a result, and to obtain stability in school funding, in 1976 the District filed suit challenging the validity of the special excess levy system under the Washington State Constitution, Article IX, Sections 1 and 2. The challenge was successful at the trial court level (the "Doran decision") and in the Washington State Supreme Court.[4] The Washington State Legislature, in the wake of the Doran decision, limited appropriations to the District and placed a "lid" on the funds the District may derive through special excess property tax levies.[5] This has seriously limited the District's ability to pursue "voluntary" desegregation strategies which are far more expensive per pupil than The Seattle Plan strategies.

Effective August 1976 the Board hired a new Superintendent, Dr. David L. Moberly, as the District's chief administrative officer. Believing then that the District's financing might be more stable and ample as a result of the Doran decision, and that it was educationally and morally right to do so, the Board directed their new Superintendent to develop and implement a desegregation program for the Seattle Public Schools.

In the fall, winter and spring of 1976-77 the District embarked on development of a much publicized magnet

[4]*Seattle School District No. 1, et al. v. State, et al.*, 90 Wn.2d 476, 585 P2.d 71 (1978).

[5]RCW 84.52.052 *et seq.*

school program. The program permitted students to voluntarily transfer from their "neighborhood" schools to a "magnet" school which contained an educational program designed to attract students to it. The hope was that a sufficient number of transfers would occur to make the program educationally successful, and at the same time reduce the level of minority race segregation (or "racial imbalance" or "racial isolation") in both sending and receiving schools.

During its implementation in the 1977-78 school year, the magnet program was successful in promoting significant new student movement, much of which positively affected racial balance. However, the magnet-only strategy was very expensive and seemed incapable of eliminating racial imbalance in the District's schools. While racial balance in several schools improved, the number of racially imbalanced schools in the District actually increased.[6] Something more than mere voluntary transfers was obviously needed — at least as a back-up possibility.

The magnet program also drew criticism from the minority community because it appeared to be racist,[7] caused further crowding of some of the District's already overcrowded racially imbalanced schools, and required large expenditures of scarce resources for the purpose of inducing voluntary movement instead of for upgrading basic educational programs. Minority leaders pointed out that significant numbers of minority children could scarcely be expected to voluntarily transfer out of mostly minority schools at the same time large expenditure increases for the educational programs in those schools were occurring in order to attract majority students.

The optimism which some had for the magnet program (combined with the modest but still important man-

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[6]*See* page 17 of plaintiffs' Complaint and Exhibit D to the Affidavit of David L. Moberly.

[7]Its success being in part dependent upon suppositions as to what types of educational programs would attract minority and majority students — as necessary to improve racial balance. *See generally* the Affidavit of Cheryl Bleakney, pages 6-80.

datory busing component of the 1972 middle school program which remained in effect through the 1977-78 school year)[8] began to wane.

More and more citizens voiced their impatience with what they viewed as the District's procrastination in moving toward actual desegregation. They believed each year of avoiding the issue brought another year of lost educational and moral opportunity.

Groups such as the National Association for the Advancement of Colored People ("NAACP"), American Civil Liberties Union ("ACLU"), Council of Churches of Greater Seattle and others threatened a comprehensive federal court suit against the District if it did not take conclusive action to desegregate its schools. The NAACP actually filed an administrative complaint[9] under Title VI of the 1964 Civil Rights Act with the Office for Civil Rights of the United States Department of Health, Education and Welfare in April, 1977.

On May 20, 1977 the Mayor of Seattle and the Presidents of the Seattle Chamber of Commerce, Seattle Urban League and Municipal League wrote Don Olson, then the President of the School Board, urging the Board to define racial isolation and establish measurable goals leading to its elimination "prior to a Court ordered and mandated desegregation remedy." This letter is Exhibit C to the Affidavit of David L. Moberly, and Exhibit 3 to the Affidavit of Cheryl Bleakney.

At the same time, the School Board continued its search for ways to meet the educational and moral imperatives of desegregation within the context of a community consensus. The Board wanted to accomplish desegregation peacefully, without the rancor which had torn some other major Northern cities apart. The Board also wanted to accomplish desegregation through a process which they and the community designed and controlled —

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[8]*See Citizens Against Mandatory Bussing v. Palmason, supra.*

[9]A copy of this complaint is attached as Exhibit A to the Affidavit of Marlaina Kiner which is Exhibit I to Plaintiffs' Complaint in this case.

not a process subject to the uncertainties and loss of local control involved in court-ordered desegregation. They knew the price other school districts had paid when responsibility was abdicated and desegregation was left to the courts.

On May 11, 1977 the Board adopted eighteen suggested criteria for evaluating future desegregation plans. On June 8, 1977, the Board adopted Resolutions 1977-8 and 1977-9[10] which for the first time

(a) defined "racial imbalance" as "The situation that exists when the combined minority student enrollment in a school exceeds the District-wide combined minority average by 20 percentage points, provided that the single minority enrollment (as defined by current federal categories) of no school will exceed 50 percent of the student body;"

(b) committed the District to the elimination of "racial imbalance" by the beginning of school year 1979-80, subject only to Board approved educationally sound exceptions;

(c) directed the formulation of a process of administrative planning and public participation in the preparation of a plan for School Board consideration; and

(d) established December 15, 1977 as the deadline for planning, discussion and a Board vote on the adoption of desegregation strategies.

On July 27, 1977 the Board prioritized its desegregation plan criteria to require that equity of movement between minority and majority students, and preservation of ethnic identity and cohesiveness be features of any District plan.

During the summer and fall of 1977 the planning process required by Resolution 1977-9 was given massive publicity. District staff prepared four plans for public review; the Urban League of Seattle submitted a fifth one.

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[10]The criteria are attached as Exhibit A to the Affidavit of David L. Moberly filed herewith; Resolutions 1977-8 and 1977-9 are attached to the Complaint filed in this matter as Exhibits D and E.

Over 30 public hearings were held across Seattle to discuss the intertwined issues of education, desegregation, finance and planning. The five plans were thoroughly discussed, as were the merits of voluntary and mandatory strategies to accomplish the elimination of racial imbalance. All five plans necessarily contained some element of mandatory student assignment — either as a backup to voluntary transfers or as an initial proposition — in order to guarantee the elimination of racial imbalance. The public was, therefore, made aware that some element of mandatory assignments was critical to the success of any viable desegregation plan.

By the end of November 1977 the District's staff had synthesized the five plans and public discussions into a proposal which in early December was submitted in written form to the Board. The proposal from Superintendent Moberly contemplated the pairing or combining in groups of three (triads) most of the city's minority segregated elementary schools with majority schools. Grade reconfiguration within the pairs or triads (*e.g.*, all students in grades 1-3 from two paired schools would attend, as their "fixed assignment," one site, all grades 4-6 students would attend the other site) were designed to eliminate racial imbalance in each affected school. New "feeder patterns" from the desegregated elementary schools to secondary schools would then accomplish "phased-in" desegregation of the secondary schools. An integral feature of this proposal was the availability of educational options as alternatives to "fixed assignments."

The educational and fiscal consequences of the plan were thoroughly considered. The plan met the Board's basic criteria and goals — it would substantially reduce racial imbalance in the District's elementary schools and begin elimination of racial imbalance in the secondary grades.

Over the years, while the District has attempted to deal with the issue of desegregation, some of the loudest voices in opposition to the District's actions have been majority race parents who, for various reasons, have resist-

ed any District efforts to assign their children to schools other than their "neighborhood" schools. This is really what inspired the two *CAMB* cases.[11] While the cast of characters may have changed somewhat between 1971-72 and December 1977, the basic issue had not: Would the District permit all children to attend their "neighborhood" schools — virtually guaranteeing the perpetuation and worsening of racial segregation in the public schools of Seattle — or would it assign some of them to more distant schools? This, however phrased, has always been the fundamental question.

Indeed, this was the main issue in still more public hearings held by the Board during the first weeks of December 1977. The Board made several material changes in the draft plan as a result of these hearings.

Despite the ongoing publicity given the possibility — even the probability — that mandatory measures would be required to actually eliminate racial imbalance in the District; despite the fact that all five of the plans studied in the summer and fall of 1977 contained, as outlined in publications sent to all school parents,[12] some mandatory aspect; despite even the evident logic of some mandatory features, plaintiffs in the *Roe I*, *Roe II* and *Velikanje* cases[13] did not realize until early December 1977 that the District was serious about eliminating racial imbalance — through mandatory strategies if necessary. * * *

The stage was now set for the December 14, 1977 vote

[11]It was not a mere coincidence that plaintiff in those cases was named "Citizens Against Mandatory Bussing" — the bus being the vehicle used to realize desegregation by transporting children for a portion of their school careers from their traditional "neighborhood" assignment to a more distant school. The successor to CAMB in the District's more recent desegregation litigation is CiVIC, or Citizens for Voluntary Integration Committee. Again, it is no coincidence that CiVIC's very name alludes to the racial integration-segregation issue involved in plaintiffs' challenge to Initiative 350.

[12]*See, e.g.*, Exhibit C to the Affidavit of David L. Moberly.

[13]As alleged in plaintiffs' verified Complaint, plaintiffs in those three cases were for the most part, if not entirely, members of CiVIC or were acting in concert with CiVIC and members thereof. CiVIC and CiVIC members were the principal proponents of Initiative 350.

of the Board. Watching closely were the NAACP, ACLU, Council of Churches and others threatening litigation if the Board did not decisively act. On the other side, there was the newly formed Citizens for Voluntary Integration Committee, or CiVIC. On the morning of the December 14 vote, members of CiVIC attempted to enjoin the vote through a lawsuit filed the previous day.[14] Following a hearing, Superior Court Judge George H. Revelle denied their motion.

That afternoon the Board adopted Resolution 1977-28,[15] and The Seattle Plan which implemented the Resolution, by a vote of 6-1. The pairing-triading, fixed assignment, and educational option aspects of the Plan remained essentially intact.

The Superintendent was also authorized to continue developing and refining The Seattle Plan consistent with the strategies and implementation time lines outlined in it, and subject to continuing Board review, approval, and action where needed. The Board also required periodic progress reports.

Following additional community involvement, and action on specific aspects of the plan, The Seattle Plan was finally adopted by the Board in its meetings of March 8, 22 and 29, 1978.[16]

On January 13, 1978 plaintiffs filed a new lawsuit ("*Roe II*") — Cause No. 839530) challenging the Board action of December 14, 1977. *Roe I* and *Roe II* were subsequently consolidated into one action. * * *

The *Roe I* and *II* plaintiffs' and CiVIC's efforts in King County Superior Court failed to halt implementation of The Seattle Plan. The District's motion for summary judgment in the *Roe* cases was heard in late spring of 1978. Judge Frank D. Howard dismissed with prejudice all but one of plaintiffs' claims in the *Roe I* and *Roe II* lawsuits (King County Cause Numbers 839530 and 838291). A claim charging that the District violated Washington's

[14]"*Roe I*" — Cause No. 838291.

[15]Attached as Exhibit F to plaintiffs' Complaint.

[16]*See* Exhibit H attached to the affidavit of David L. Moberly.

State Environmental Policy Act ("SEPA;" RCW 43.21C) in failing to prepare an Environmental Impact Statement (EIS) in connection with the desegregation plan was dismissed without prejudice due to plaintiffs' failure to join an "indispensable party," the Washington State Department of Ecology.

Undeterred, plaintiffs and CiVIC appealed the Superior Court rulings to the State Supreme Court and filed a new lawsuit in Thurston County Superior Court against the District and the Washington State Department of Ecology ("DOE") (*Velikanje v. Seattle School District No. 1, et al.*, Thurston County Cause No. 78-2-00066-2). The new suit charged both the DOE and the District with violation of SEPA in connection with DOE's exemption of desegregation activities from EIS requirements and the District's subsequent adoption of desegregation plans without an EIS. Neither the appeal nor the Thurston County lawsuit have been expeditiously pursued, although the District has deposed a representative plaintiff in the Thurston County litigation.

During the *Roe* litigation, CiVIC President Robert Dorse was deposed by the District. At that time, he acknowledged CiVIC was the organization behind the *Roe* cases and Initiative 350, and that Initiative 350, then being circulated for signatures, was designed specifically to prevent the "mandatory" aspects of The Seattle Plan or of any other similar plan.[17]

CiVIC gathered the required signatures for Initiative 350, and in July, 1978 the measure was filed and placed on the November ballot.

CiVIC's statewide campaign in favor of Initiative 350 belied the group's name and claim of support for "voluntary integration." CiVIC strongly criticized The Seattle Plan's transportation costs, even though the costs of a "voluntary" desegregation program would be higher. It also criticized the inconvenience of the bus ride to school — which, of course, is the same whether the ride is

[17]*Roe I* and *Roe II*, *supra*, Dorse deposition, p. 84; Exhibit C to the affidavit of Michael W. Hoge.

voluntary or mandatory. Thus, the cost and convenience issues were in reality arguments against desegregation itself. In the last stages of the campaign, CiVIC also attempted to create a "favorable" election climate by roundly denouncing the Washington State Superintendent of Public Instruction's encouragement of voluntary interdistrict desegregation efforts. CiVIC took the position that desegregation has not worked for 24 years — the time since the *Brown* decision.[18] * * *

On October 19, 1978 the Washington State Board of Education adopted a policy statement which revised the State Board's previously adopted definition of "racial imbalance" in Washington's public schools.[19] The new definition is consistent with the one adopted by the Seattle School District in June, 1977. That same day, the State Board by resolution formally expressed its concern for the educationally harmful effects of Initiative 350.[20]

On October 25, 1978 the Seattle School Board, remaining committed to full implementation of The Seattle Plan, passed the following motion directing the District's administration to develop a resolution regarding planning for 1979-80.[21] The motion reiterated the Board's previous findings regarding the educational desirability of The Seattle Plan:

> Given the successful beginning of school this fall and the Board's previous determination that equitable, certain, and educationally sound elimination of racial imbalance in the Seattle Public Schools is most economically accomplished through a system of redesigned attendance areas coupled with educational options for students, I move the administration continue toward meeting the goals of Resolution 1977-8 by developing a resolution regarding desegregation planning for 1979-80.

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[18]*See generally* the affidavit of Cheryl Bleakney, at pages 15-18, and page 24 of the deposition of Hal Velikanje, attached as Exhibit D to the affidavit of Michael W. Hoge.

[19]Exhibit N to plaintiffs' Complaint.

[20]Exhibit O to plaintiffs' Complaint.

[21]Exhibit H to the affidavit of David L. Moberly.

The resolution shall be prepared for Board discussion on November 8 and possible adoption on November 15, and shall provide for:

(a) a time line for desegregation planning for the 1979-80 school year;

(b) the role of the Board in the planning process;

(c) a process of citizen involvement and participation in the planning; and

(d) coordination of educational planning, comprehensive facilities planning, and desegregation planning.

* * *

On November 8 the Board voted 5-0, with two members absent, to authorize its attorneys to challenge the constitutionality of Initiative 350.[22] Later in the November 8 session, the Board received a preliminary report from the administration indicating the Board's goal of eliminating one-half or more of the system's racial imbalance has been substantially exceeded.[23]

On November 15 the Board reviewed its decision to authorize litigation challenging Initiative 350, and this time voted 6-1 to authorize this lawsuit. The Board also adopted, in slightly modified form, the resolution directed to be proposed in October and first discussed on November 8, to continue the District's move toward fulfillment of its June 8, 1977 commitment to desgregate Seattle's schools.

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[22]Pertinent portions of the minutes of the November 8 meeting, including statements made by Board members prior to the vote, are attached as Exhibit J to the Affidavit of David L. Moberly.

[23]*See* Exhibit J to the Affidavit of David L. Moberly.

EXHIBIT 7

PREFILED WITNESS STATEMENT OF CHERYL BLEAKNEY

I was appointed to the Seattle School Board in April of 1972 to serve the unexpired term of Dr. Robert Tidwell, who had resigned. I was reelected to a six-year term in November 1975. I have personal knowledge of the facts stated herein, and I am competent to testify thereto.

Historical background

There has been a long-standing commitment to desegregation by past Seattle School Boards. That commitment has certainly been reflected in actions of the Board during my tenure in office.

One of the first official actions I participated in was the vote to implement the middle school desegregation program. The State Supreme Court had cleared the way for that action in the Citizens Against Mandatory Bussing ("CAMB") case on April 6, 1972. That desegregation effort was centered in four middle schools — Eckstein, Hamilton, Wilson and Meany/Madrona. Its success was dependent upon, and heavily emphasized, recruitment of volunteer student participants. It also contained a mandatory backup based on randomly selected geographical points with the requisite number of students to be drawn in around those random points. The School District gave its best effort, augmented by many citizens, to recruit volunteers. At no time in the six-year history of the middle schools, however, have we been able to draw enough students to desegregate the middle schools through solely voluntary means.

This has meant mandatory student assignments each year of approximately half the students necessary to desegregate those schools.

As indicated by the District's long-standing Voluntary Racial Transfer ("VRT") program (in effect since 1963) and the 1972 middle school program just described, the Seattle School Board has demonstrated a real commitment to desegregation/integration and to its

accomplishment through voluntary means. That commitment has not diminished during my term on the Board. However, various political events have affected the zeal with which we have pursued the commitment to achieve desegregation.

The middle school desegregation program was to have been "Phase I" of a plan designed to desegregate all of Seattle's public schools. The initial injunction against implementation of that plan by order of King County Superior Court Judge William J. Wilkins on August 10, 1971 (a decision which was unanimously reversed by the State Supreme Court — almost one year later), the April 1973 recall election against four Board members (who voted for the middle school desegregation plan and who were narrowly retained in office by the recall vote) and the vehement attacks by CAMB (the plaintiffs in the April 1972 Supreme Court decision and the sponsors of the recall vote) had a sobering influence on future actions of the Board. Those political realities, plus the requirement of a 60 percent majority vote to pass the District's annual special excess levy, which raised an average of more than one-third of the District's necessary operating funds, probably explain why "Phase II" was never implemented.

The Board did, however, continue to state its goal of desegregating Seattle schools, and it instituted a number of related programs and actions with varying degrees of success. On June 12, 1974, the Board adopted Resolution 1974-14, which called for: (1) The desegregation of Garfield High School through a combination of cancelling all transfers out of Garfield which did not aid desegregation, a redrawing of attendance boundaries, and establishment of exemplary academic programs; (2) Commitment to multiracial schools; (3) The pairing of each heavily minority elementary school with a predominantly white school to develop informal contacts and exchanges of students; (4) A boundary realignment study; and (5) A continuing commitment to the VRT program.

The implementation of this resolution provided only minimal success. Garfield High School did experience a reduction of minority racial imbalance from 85.2 percent mi-

nority in 1973-74 to 72.5 percent minority in 1975-76. The pairing of elementary schools did not appear to have any appreciable effect on segregation in the elementary schools, and was substantially abandoned in the 1975-76 school year, a victim of the 1975 special levy election defeat which caused the gutting of many School District programs. The boundary realignment study indicated there was little likelihood desegregation could be accomplished through redrawing boundaries.

The School District was not successful in increasing the number of VRT's. During the 1975-76 school year the Board had authorized a program of "Focus" schools, with added resources and special emphasis to attract voluntary movement. It was not very successful, and was abandoned after one year. The overall desegregation program continued to be for the most part a one-way trip, with minority (especially black) students constituting most of the transfers.

Three new Board members were elected to the Board in the fall of 1975; the Board continued its commitment to desegregation/integration. In the winter and spring of 1976 the Board developed for the first time explicit long-range goals for the School District. Desegregation was expressed as a major priority in those goals.

During that same period, the Board was actively recruiting a new Superintendent. One of the screening criteria used in selection of the Superintendent was "ability to work in a multi-racial setting." Much of the time spent in interviewing the final candidates for Superintendent centered on discussion of and approaches to desegregation. Desegregation was clearly a high priorty of the Board (the same Board members who presently serve). Dr. David Moberly of Evanston, Illinois, was selected as Superintendent in May of 1976, assuming his full duties in August of that year.

In selecting Dr. Moberly it was the expressed prevailing opinion of the Board that we believed in integration as an educational and ethical goal. In addition, we have been and are also aware of increasing legal pressures on us to desegregate our schools. We also observed what was hap-

pening in this regard to other northern and western school districts.

During the summer of 1976 the Board worked by Dr. Moberly to develop first-year program and planning objectives. Voluntary desegregation was the first priority. The Board and Superintendent met in October 1976 at Providence Heights with Dr. William Maynard, who had been appointed to the newly created position of Director of Desegregation. We reviewed a slide presentation which had been prepared by Dr. Maynard and discussed planning assumptions for an intensified desegregation project for the 1976-77 school year.

The School District's desegregation efforts have been aided by a variety of citizen committees. In fall of 1974 the District-Wide Advisory Committee on Desegregation ("DWAC") was instituted to advise the then Superintendent on desegregation matters. This committee has had a very active role in the development of the District's Magnet Plan and ultimately The Seattle Plan.

During the fall and winter of 1976 the Committee was chaired by Dan Levant. Mr. Levant and members of the Committee grew increasingly critical of the route the administration was following in its desegregation planning for the magnet school program. They were particularly unhappy about the Superintendent's directions to staff in late 1976 which limited any desegregation planning to voluntary student movement only. This criticism reached its peak in a December 1976 confrontation with members of the School Board and DWAC. Mr. Levant resigned as Chairman of DWAC in late January of 1977.

Other community groups also expressed grave reservations with the magnet concept. In addition to DWAC's opposition, the Board heard opposing statements from the Seattle Urban League, the City of Seattle's Human Rights Commission, the Church Council of Greater Seattle, and the Central Area School Council, as well as a number of individual religious and minority leaders. Basically, they reflected concern over the issues of fairness in the distribution of funds for a magnet program. There was an expressed fear that large sums of money were being

invested in programs to attract white students who would mainly be from advantaged homes where parents were motivated to seek out special programs. At a time of diminishing resources, this meant fewer dollars for compensatory programs for disadvantaged students (many of whom are those least able to help themselves). There was also concern about fairness — that minority students would be disproportionately forced out of their more crowded schools to make room for white students, and that enriched programs, such as the magnet programs, be equally available to all students. These groups were also expressing resentment that the School District was trying yet another approach to voluntary desegregation, when the District's record to date in this regard had not been very successful. Many perceived this as yet another delaying tactic by the Board.

As the District embarked on the magnet plan for school year 1977-78, I must admit to some personal reservations as to whether or not a purely voluntary plan could succeed. Three of my children have been participants in the VRT program. They have a combined total of 26 years in Seattle Central Area schools, beginning with 1968. I have worked exceedingly hard to recruit other families to the program, but without much success.

Nonetheless, it seemed important to give one last great effort to accomplish our goal of desegregating the Seattle Public Schools through voluntary means. Both the School District and the community at large gave tremendous support to the magnet plan, but it became increasingly clear that it would not alone cure desegregation of our schools. Exhibit 8 is two tables summarizing the results of the voluntary desegregation movement in the District through 1977-78 and the numbers of schools racially imbalanced in selected years.

In spring 1977 the Board's Desegregation Committee (consisting of Board members Dorothy Hollingsworth, Suzanne Hittman and me) sought administrative preparation of contingency plans as a part of the District's desegregation effort. We wanted the District to be prepared with backup planning if the Magnet Plan failed.

In the meantime, legal threats to the District had become more imminent. The National Association for the Advancement of Colored People ("NAACP") had filed charges in April 1977 with the United States Department of Health, Education and Welfare's Office for Civil Rights, alleging acts of intentional segregation by the District. The American Civil Liberties Union threatened comprehensive desegregation litigation unless the Board took satisfactory action.

In prior discussions of the magnet plan, the Board had talked only in vague terms about reducing minority student segregation — racial isolation. There were no specific percentages established and there was no way of adequately measuring success or failure. This caused some problems in the planning for backup measures, since it was difficult, if not impossible, to know what would trigger those measures. As backup strategies were examined, it became increasingly evident the District was severely limited in the types of desegregation strategies it could employ — particularly when there were no guidelines from school to school as to what our specific goals were, and no guidelines as to building capacity. It appeared wasteful and self-defeating to make mandatory "backup" assignments of students to programs which had been uniquely designed to attract students with special interests or talents.

In examining the results of magnet recruitment, it also became evident that racially imbalanced schools could not absorb all the majority race students necessary to desegregate them without becoming hopelessly overcrowded. The racial minority population in those schools could, of course, be encouraged to transfer out, but minority children already accounted for the bulk of the District's VRTs. We could not logically expect our minority children to expand their voluntary efforts. Nor could we also expect them to voluntarily leave schools which we were upgrading (to attract majority students) in order to make room for the majority students.

Another of my concerns, and that of several other Board members, was the basis of future funding for schools. It was increasingly apparent that our funding

sources were going to be limited as a result of Thurston County Superior Court Judge Doran's school funding decision of January 1977, and subsequent action of the Legislature in 1977. It was uncertain whether we could afford the rather expensive magnet programs, and whether it was a fair allocation of scarce resources to use them to entice student movement rather than to meet student needs.

I had looked at Tacoma's so-called voluntary plan, but it appeared to offer little potential for us. Tacoma had acted in 1968 to close two predominantly minority race schools. One of the schools was reopened as a magnet-type option with enrollment strictly regulated to limit the number of minority students accepted. The minority students displaced by the two closures were allowed to transfer into other predominantly majority schools, but they were, in effect, mandatorily moved out of their neighborhood schools.

To accomplish something of a similar nature in Seattle would require the massive closures of minority schools or a force-out of minority students from existing schools so as to make room for majority students. In other words, a voluntary plan for majority students and a mandatory one for our minority students. In contrast, under the Board's current desegregation planning criteria, the burden for desgregation is to be borne equitably among the majority and minority students. I believe it a credit to all citizens who worked on The Seattle Plan that serious consideration was never given to any plan which would unfairly burden our minority children.

Adoption of The Seattle Plan

All of this background and knowledge of events contributed to the Board's decision on June 8, 1977 to adopt Resolutions 1977-8 and 1977-9, which resolutions are Exhibits 9 and 10, respectively. It was clear by this time that we could not measure the success of any desegregation effort until we had defined racial imbalance. It also seemed clear that it would take a firm commitment to the elimination of racial imbalance by a time certain to avoid

lengthy and divisive litigation by civil rights groups seeking to compel desegregation.

The Board had numerous discussions with our attorneys during the winter and spring of 1977, trying to assess our vulnerability to charges of segregatory acts, and the risks involved in federal court action. I believe we all wanted to avoid such time-consuming and expensive litigation and the likelihood of court intervention in the educational management of our School District. Only one Board member remained unconvinced that our action was necessary to avoid this eventuality.

A majority of the Board seemed to recognize that some mandatory strategies (either initially or as a backup to a voluntary plan) would be necessary to achieve our desegregation goal. In the spring of 1977 Superintendent Moberly was quoted to this effect in the daily papers, on radio and TV. It was also reflected in the heated debate by the Board prior to adoption of the two June 8 resolutions. There was considerable public support for our adoption of the resolutions, including a letter to the Board in late May 1977 from the heads of the Seattle Chamber of Commerce, Municipal League, Urban League and then Mayor, Wes Uhlman. A true copy of this letter is Exhibit 11. I recall vocal opposition from only one source — West Seattle citizen Larry Penberthy.

In May of 1977 the Board, with the recommendations of DWAC (chaired then by Dr. Richard Andrews) had adopted criteria for judging desegregation plans. These criteria were further refined by the Board on July 27, 1977, with two of the criteria labeled as essential to any plan: Equity of movement between minority and majority students, and preservation of ethnic identity. We recognized the other criteria would be met to varying degrees by different plans, and some would require trade-offs. The criteria were printed and distributed to the public. They were used in a very systematic way by DWAC to point out the pros and cons of the five alternative plans which were presented to the public in the fall of 1977.

There was extensive public involvement in the evolution and examination of the five models and the eventual

adoption of The Seattle Plan. Groups and individuals were invited to submit plans for consideration. The Seattle Urban League did submit a new version of their 1964 Triad Plan. (The original had been proposed to the Seattle School Board in 1964 and had been rejected.) It was reworked in cooperation with School District planners and was offered to the public as "Plan V."

The School District held over 30 public meetings to explain the elements of the five proposals during the fall of 1977. Most of these meetings were attended by one or more Board members. As we had earlier agreed, each of us wrote his or her reaction to what occurred at the public hearings. We were extremely concerned that the Board be able to demonstrate we had heard public opinion and were responsive to it.

My observations of the meetings I attended, and the results of a questionnaire which was passed out at the meetings, were that the public's concerns were sometimes contradictory — there was a strong desire expressed for voluntary programs, freedom of choice and wide options, but these had to be weighed against contrasting desires for stability and continuity of assignment. Citizens frequently expressed a desire for the most economical method of desegregation, and yet we have seen voluntary programs are the most costly. There were also clear expressions in favor of keeping neighborhood children together regardless of their school assignment.

It was apparent there was no way we could design a plan which would address all of these conflicting goals. However, the community desires for stability, predictability, continuity, and neighborhood cohesiveness seemed of paramount long-term importance to me, in addition to our absolute criteria of equity of movement between majority and minority children and the maintenance of ethnic identity.

We also heard (very vociferously) from parents of students presently in the VRT and magnet programs. They expressed the view that they had shown an act of faith in transferring their children, and that the School District had an obligation to continue their programs. The Board

realized that allowing choices and grandfathering present transfers would complicate our transportation problems and add to our overall costs, but our Board was committed to options in education. We were also concerned about the good will of those parents who had supported our past voluntary desegregation efforts. They strongly advocated a plan which incorporated educational options.

At our November 9, 1977 meeting the Board spent a good deal of time discussing certain issues outlined by Dr. William Maynard. His analysis pointed out that the five models we had been discussing in public presentations could be divided into two basic strategies: (1) primary strategy voluntary movement, with a mandatory backup; or (2) primary strategy mandatory, but containing a voluntary component. The selection of one or the other of these basic strategies dictated what forms would follow.

I believe the entire Board felt a voluntary plan would be most desirable, but by that time the majority knew we could not reach our objective by exclusively voluntary means. Given this knowledge, we had to decide how we would choose those students who would be assigned away from their neighborhood schools in order to augment the students who had volunteered to be reassigned. The Board preferred a plan that moved groups of neighborhood students together, such as the pairing or triading of schools. This posed a dilemma: the number of volunteers and where they will go is completely unpredictable from year to year. Thus, a pairing or triading plan is unworkable as a back-up to a voluntary-first plan.

Perhaps a hypothetical example of this might be helpful in explaining this problem:

> School A is a minority-imbalanced school (75 percent minority). It has 400 students, 300 of whom are minority, and is 50 students over its proper building capacity of 350. It would require 158 white students and 192 minority students to reach a racial balance of 55 percent minority, which under the Board's definition was the point of racial imbalance last year. This means 108 minority students must leave. If, for example, 50 minority students voluntarily transfer to various optional programs, this still requires the dis-

placement of 58 individual minority children and their replacement by 58 majority children, to reach the Board's goal.

With this hypothetical example it can be seen that the Board's goal of eliminating racial imbalance cannot be met by "backup" pairings of predominantly minority schools with predominantly majority schools, because the District cannot know, until the voluntary recruitment phase is completed, which schools can logically be paired. It will be next to impossible to recruit student volunteers to a school if they do not know if it is going to be paired and its grade structure changed later in the year. Because the number of volunteers and their selected schools will change every year, the elements of stability and continuity will be lacking in this backup strategy. A voluntary first plan thus limits the backup strategy to some kind of random reassignment of individuals or clusters of students.

We also perceived educational and stabilization advantages to pairs/triads, particularly with the District's current problem of declining enrollment. By concentrating students of only two or three grades in one school and coupling school populations, we will be able to take better advantage of specialized teachers, and can also offer far more flexibility in class arrangements as well as options in teaching style. For instance, in an elementary school with 120 third graders, it will be possible to have one self-contained classroom of 30, one team-teaching arrangement of 60, and one alternative program serving all three grade levels (30 of them third-graders). There are also some positive facility aspects — pairing a typically crowded minority school with an underutilized white school equalizes the two populations and more effectively utilizes space.

I cannot speak for the other Board members, but I believe they were all going through similar mental struggles to find a plan which would be most acceptable to the community and which would best serve our children and the long-term interests of the City. I believe this is how general support for the pair/triad plan came about.

As we began to hammer out the final details of The Seattle Plan (at the end of November and in early

December, 1977), then Board president Don Olson made a strong statement to the effect that the issue of "voluntary first" or "mandatory first" had become moot. The Board was working toward a plan which gave every child a choice. Creating the pairs and triads accomplished our basic goal of desegregation, but students would be allowed and indeed encouraged to choose other programs within the District. Their transfers would be allowed if the transfer did not increase racial imbalance and if there was available space. (This year over 5,000 students have taken advantage of this opportunity.) The Board adopted the Seattle Plan on December 14, 1977 in Resolution 1977-28, a copy of which is Exhibit 12. After adoption of the Plan, the Board took several subsequent actions prior to the 1978-79 year. These actions are reflected in Exhibits 13 through 20, which are copies of administrative documents from February 1, 1978 to June 5, 1978 describing Board actions and administrative implementation thereof.

The Initiative 350 campaign

In addition to my official participation as a member of the Seattle School Board during development of the Seattle Plan and its subsequent defense in the Roe cases in King County Superior Court, I was extensively involved as a private citizen in political activities opposing Initiative 350. I was one of the original members of the State Committee for Local Control, organized to oppose Initiative 350. It was clear from my reading and from analysis by School District attorneys that the effect of implementing Initiative 350 would be to dismantle all aspects of the Seattle Plan and thus resegregate Seattle Schools.

I personally appeared on a number of platforms prior to the November 1978 election either as a panelist or debator with members of CiVIC (including Robert Dorse, Veda Jellen, Vicki Schmitz, Ben Caley). I have explained and defended the Seattle Plan in these public exchanges, and have debated the potential effects of Initiative 350. Representatives of CiVIC concentrated most of their attacks on desegregation in Seattle and criticism of the

Seattle Plan and minimized any state-wide effect. They spoke of their conviction that their lawsuits filed in Superior Court in December 1977 and January 1978 would be successful in stopping implementation of the Plan. After failure of those suits (Exhibits 21, 22, and 23 are copies of Judge Howard's three orders in the *Roe* cases dismissing the CiVIC plaintiffs' claims), they concentrated on their proposed Initiative and its effectiveness in preventing further "forced busing."

The words "busing," "forced busing," and "mandatory busing" have come to be synonymous with student reassignment for desegregation purposes. "Busing" has become sort of a code word, and is seldom if ever used for the multitude of student transportation purposes other than fixed assignments to reduce racial imbalance (*e.g.*, special education, over two-mile, extra curricular, hazardous, and voluntary desegregation), which other purposes ironically cover the larger portion of our transportation budget.

At a meeting April 18, 1977, at the Magnolia Community Club, Veda Jellen, CiVIC's legislative cochairperson, raised the issue of Tacoma's transportation costs compared to Seattle's as an example of how a so-called "voluntary" plan would be much less expensive than Seattle's mandatory. Yet, all of Seattle's transportation costs are greater than Tacoma's (special education, two-mile, etc.) because of different service levels, our peculiar geography and Tacoma's greater reliance on municipal bus service. It is not Tacoma's "voluntary" transportation which makes their costs less than Seattle's "mandatory" transportation. It is their reliance on municipal bus passes. Seattle's "mandatory transportation" costs less than its "voluntary transportation."

When Mr. Dorse appeared before the Board on December 12, 1977, he urged us to adopt an open enrollment plan to satisfy any legal obligation we might have to desegregate. He did not appear to be concerned with the effectiveness of such a plan for integration. He suggested at that meeting that the Board should canvass the parents of Seattle to ask "Where would you like your children to go

to school?" Answering his own question he said "I'll bet you would find darn few would want to shift around."

Representatives of CiVIC in early public presentations were extremely laudatory of the plan developed by Tacoma to desegregate its schools. I can recall specific occasions with Mr. Dorse and Mrs. Jellen when they proposed the Tacoma Plan as an alternative to our plan. They characterized it as voluntary in nature. I certainly anticipated elements of the Tacoma Plan would be present in the plan CiVIC ultimately developed. This was not the case. Tacoma's success was dependent upon school closures and "ethnic lidding" (limiting minority enrollment in their neighborhood schools). Thus, Tacoma's plan would not work in Seattle under the provisions of the CiVIC Initiative.

One aspect of the Seattle Plan which is particularly important to me and which is lacking in many desegregation plans is its racially neutral structure. Race is taken into account in determining total school population ratios, but because the whole neighborhoods move together, the race of an individual child is not significant in determining who will move.

While Initiative 350 makes no reference to reassignment for racial reasons, it is clear to me, after following the history of desegregation in Seattle and the genesis of CiVIC, that the motivating purpose behind the Initiative was to prevent implementation of the Seattle Plan, and to prevent any further efforts to desegregate Seattle schools through reassignment policies. For instance, a letter (Exhibit 24) to School Board Members, dated January 27, 1978 from Deiter Jahns, CiVIC member, lists many of the desegregation tools found in Section 3 of the Initiative.

During the election campaign which led to adoption of Initiative 350, there were questions raised as to the meaning of many aspects of the ballot issue. Proponents of the measure (CiVIC) took the most flexible position possible, contending, for instance, that grade reconfigurations were not prohibited so long as students were reassigned to the nearest or next nearest school after the grade

reconfiguration. The Attorney General's explanatory statement in the Voters' Pamphlet gave the same interpretation. Proponents stressed that the Initiative would not interfere with traditional school district assignment authority except for racial balance reasons. At a debate over Initiative 350 which I had in October 1978 with Ben Caley, CiVIC's legislative cochairperson, he said the Initiative would not affect "99 percent" of the State's school districts. When questions were raised by the Seattle School District or by opponents of the Initiative as to school district flexibility to deal with nonracial balance student assignments under the Initiative, CiVIC's responses and advertising were unvarying: No such restrictions of local control would occur under the Initiative. Responding to questions raised that disciplinary transfers might not be allowed, CiVIC contended that Initiative 350 did not prohibit such movement. Special programs could be moved under their interpretation. Special education students were excused from the "nearest" or "next nearest" school provisions in the language of the initiative, as were students whose routes involved safety hazards. Overcrowded buildings were exempt under CiVIC's definition. In short, it appeared to me, that the only educational reason students could not be assigned beyond nearest or next nearest was for purposes of racial balancing. Exhibits ___ and ___ are opinion letters from CiVIC attorney James Oliver which were circulated by CiVIC during the campaign. They were frequently available in stacks on tables at places I appeared to debate Initiative 350 with CiVIC members.

Exhibit 25 is a flyer prepared by the anti-Initiative 350 citizens' group and widely distributed in the campaign.

Although opponents of Initiative 350 attempted to focus attention on other issues, it was and remains my perception that opponents were never successful in shifting the issue away from "forced busing," *i.e.*, busing for desegregation.

On November 1, 1978 the Mayor of Seattle and heads of Seattle's Chamber of Commerce, Municipal League and

Urban League again wrote to the School Board. A copy of that letter is Exhibit 26.

In late October 1978 the Seattle School District sent to parents of all Seattle Public School students the flyer which is Exhibit 27.

School closures

The Initiative specifically allows for school closures, with the proviso that students thus displaced must be assigned to the "nearest" or "next nearest" school. I can personally attest to the political difficulties of closing any school in Seattle, but such closures, in my opinion, should reflect a number of considerations such as the quality of the buildings, their educational value, and their use by the community. If desegregation becomes the sole criteria, we would have to ignore other vital elements of so serious a decision.

Because our minority impacted schools are generally over-crowded, there is not room for additional white students in those schools without displacing minority students and we cannot displace minority students into surrounding schools without adversely affecting those schools' racial composition. Closure of minority schools results in the same problem. For example: If Leschi were to be closed, the nearest and next nearest schools are Madrona, Minor, Colman and Gatzert — all racially imbalanced and (with exception of Madrona) near or over capacity prior to implementation of the Seattle Plan.

Continuation of the Seattle Plan

The District has proceeded with planning for full implementation of the Seattle Plan. On October 25, 1978, after a three and one-half week delay in starting school due to a teachers' strike, the Board passed a motion directing preparation of a "year two" planning resolution. Exhibit 28 is pertinent pages of the official minutes of the October 25 meeting.

On November 15, 1978 the Board adopted Resolution 1978-23, which is Exhibit 29. The planning process followed subsequently is outlined in Exhibit 30, an adminis-

trative document dated November 28, 1978.

Exhibits 31 through 34 are administrative documents describing the process of citizen involvement and Board action on 1979-80 desegregation plans; Exhibit 34 contains the motion adopted by the Board March 7, 1979 outlining most of the 1979-80 program. In mid-April, the Board also voted to distribute Colman School's students to surrounding schools and to use the Colman facility for other District programs.

Exhibit 35 is a report prepared by District staff on several aspects of the Seattle Plan's effects this school year. It was given to the Board on April 20, 1979.

DATE: April 23, 1979.

/s/_____
Cheryl Bleakney

EXHIBIT 10

RESOLUTION NO. 1977-9
PLANNING FOR THE ELIMINATION OF RACIAL IMBALANCE

WHEREAS, The Board of Directors of Seattle School District No. 1 has, in Resolution 1977-8, resolved to eliminate racial imbalance in Seattle Public Schools by the beginning of the 1979-80 school year; and

WHEREAS, the Board of Directors is committed to achieving this goal by educationally sound strategies; and

WHEREAS, the Board of Directors recognizes that the development and implementation of methods that are in the best interests of children within the District require thorough and adequate planning; and

WHEREAS, the Board of Directors believes that the development of sound and responsible plans will increase community support for the District's efforts; now, therefore,

BE IT RESOLVED THAT:

1. The Seattle School District administration is directed to develop educationally sound plans to be used to eliminate racial imbalance in Seattle Public Schools by the beginning of the 1979-80 school year. The Magnet School Program, the Voluntary Racial Transfer Program, as well as other District-developed desegregation programs, will continue as major components of these strategies. Additional strategies, e.g., facility closures, boundary realignments, and pairing, clustering, or zoning, are to be used as necessary to achieve this goal upon Board approval.

2. A structure and timetable for developing these plans be brought to the Board for its adoption during July, 1977.

3. This structure and timetable should at least include the following considerations: an estimate of the personnel and financial resources needed to plan educationally sound strategies; the possibility of interagency cooperation in planning, either through direct involvement or as expert resources; citizen and community involvement in the planning process; and a continuing public information process.

4. In developing the strategies to be used to eliminate racial imbalance, the mandatory strategy of random reassignment by computer is not to be used in isolation from educationally sound strategies. All other strategies are appropriate for consideration.

5. The plans to eliminate racial imbalance be comprehensive and system-wide, and include a recommendation regarding integrating the current middle school desegregation program into them.

6. The plans indicate the extent to which racial imbalance will be eliminated by the various strategies and, if necessary, which and when supplemental actions will be used to achieve these goals.

7. The plans reflect the unique aspects of the Seattle School District including the multiracial and multicultural composition of schools.

8. The plans developed be presented to the Board no later than October 1, 1977, so that there may be public hearings prior to final Board action.

9. The Board be provided a progress report on planning activities at least on a monthly basis which is to include identification of potential problem areas.

10. By December 15, 1977, the Board will select the comprehensive plan contining specific strategies and implementation timetable to be used to eliminate racial imbalance by the beginning of the 1979-80 school year.

Adopted this 8th day of June, 1977.

/s/_____
Don Olson, President

/s/_____
Suzanne Hittman, Member

/s/_____
Patt Sutton, Vice President

/s/_____
Dorothy Hollingsworth, Member

/s/_____
Richard Alexander, Member

/s/_____
Ellen Roe, Member

/s/_____
Cheryl Bleakney, Member

ATTEST:_____
David L. Moberly, Secretary
Board of Directors
Seattle School District No. 1
King County, Washington

EXHIBIT 11

OFFICE OF THE MAYOR
CITY OF SEATTLE

Wes Uhlman, Mayor

May 20, 1977

Mr. Don Olson, President
Seattle School Board
Administrative and Service Center
815 Fourth Avenue North
Seattle, Washington 98109

Dear President Olson:

The signators of this letter are sympathetic to the difficulties the Seattle School District must face in developing, adopting and implementing a successful desegregation plan. We wish to commend the School Board and Administration for the exhaustive amount of time and work already devoted to this issue, and to thank you for approaching your task with sensitivity and concern.

Experience elsewhere indicates that a commitment on the part of local leadership has contributed immeasurably to successful desegregation of the public schools. As civic leaders, we have expressed support for desegregation to you individually in the past and will continue to do so in the future. Now, however, the City of Seattle, the Seattle Chamber of Commerce, the Municipal League of Seattle and King County, and the Seattle Urban League wish to go on record together and as one voice to declare united support for your adoption of a definition of racial isolation and measurable goals leading to the elimination of racial isolation in the Seattle Public Schools, prior to a Court ordered and mandated desegregation remedy.

Our position is based on consideration of the following points: First, we believe quality integrated education

should be provided for the children of this City. We believe that an integrated education offers children a chance to share self-knowledge and learning experiences so that they can comfortably and comparably adjust to the pluralistic society of which Seattle is justifiably proud. Second, we believe your adoption of a definition of racial isolation and measurable goals at this time will provide the public with a clear understanding that desegregation will inevitably occur. We know community cooperation, critical to desegregating the schools smoothly without unnecessary disruption, will depend on how well the public is informed. Third, we do not believe that action to desegregate the schools based on goals for elimination of racial isolation must necessarily require extensive random relocation of students. We see these goals as accommodating ranges of possible strategies and programs related to the special character of the different communities in this city. Finally, we are unaware of any conclusive evidence that suggests Seattle will experience significant middle-class outmigration as a consequence of school desegregation, as long as certain conditions are met. Outstanding in importance among these conditions are (1) a measurable commitment on your part; (2) open and appropriate involvement of citizens and citizen groups from the point of policy and plan development through implementation; and (3) the support of others besides yourself who occupy positions of civic responsibility and leadership.

We appreciate this opportunity to tell you that we are ready to stand behind you as you move forward with programs for providing quality integrated education which will further the interests of the people of Seattle.

Sincerely,

/s/_____
Wes Uhlman, Mayor
City of Seattle

/s/_____
Mike Berry, President
Seattle Chamber of Commerce

/s/_____
Shan Mullin, President
Municipal League of Seattle
and King County

/s/_____
Mark Cooper, President
Seattle Urban League

WU:sim

cc: Mr. Richard Alexander
Mrs. Cheryl Bleakney
Mrs. Suzanne Hittman
Mrs. Dorothy Hollingsworth
Mrs. Ellen Roe
Mrs. Patt Sutton
Honorable Members, Seattle City Council
Dr. David Moberly, Superintendent

EXHIBIT 12

RESOLUTION NO. 1977-28

ADOPTION OF COMPREHENSIVE PLAN INCLUDING SPECIFIC STRATEGIES FOR ELIMINATION OF RACIAL IMBALANCE

WHEREAS, the Board of Directors of Seattle School District No. 1 has determined that the best interests of the students of Seattle School District No. 1 will be served by providing all students with the opportunity for a quality education in a multiracial setting; and

WHEREAS, the Board of Directors has further determined that it is in the best educational interests of the students of the District to eliminate racial imbalance (as defined in Resolution 1977-8) in District schools so as to better prepare students to live in a pluralistic society; and

WHEREAS, the Board of Directors specified in Resolution 1977-9 that it would select a comprehensive plan containing specific strategies and implementation timetable to be used to eliminate racial imbalance by the beginning of the 1979-80 school year; and

WHEREAS, extensive citizen and community involvement in the District's planning process since the passage of Resolutions 1977-8 and 1977-9 has been instrumental in development of strategies for elimination of racial imbalance; and

WHEREAS, it is the determination of the Board of Directors that equitable, certain, and educationally-sound elimination of racial imbalance may best be accomplished through a combination of educational options for students and parents and redesigned attendance areas; and

WHEREAS, the Board of Directors has as its goal the desegregation and integration of the Seattle School District through the implementation of comprehensive plans including encouraging integrated neighborhoods in District planning activities, facilities and program decisions; and

WHEREAS, the Board of Directors of Seattle School District No. 1 desires that the desegregation plan be developed by and for the citizens of Seattle and not in a federal court or agency of the federal government; now, therefore,

BE IT RESOLVED THAT:

1. Beginning in school year 1978-79, the Seattle School District will be comprised of three zones. Zone I will be the Franklin, Ingraham and Ballard geographic attendance areas. Zone II will be the Hale, Roosevelt, Lincoln and Garfield geographic attendance areas. Zone III will be the West Seattle, Cleveland, Rainier Beach and Chief Sealth geographic attendance areas. The Queen Anne attendance area will serve as a transition area between Zones I and III.

2. In each Zone, certain elementary schools will be linked in groups of two (pairs) or three (triads), which groups will have combined majority and minority student populations in proportions not racially imbalanced. Most elementary schools which are currently racially imbalanced will be included within pairs or triads. The elementary schools among which pairs and triads for 1978-79 will be selected are:

ZONE I	ZONE II	ZONE III
Briarcliff	Bryant	Arbor Heights
Brighton	Colman	Beacon Hill

Broadview	Day	Dearborn Park
Columbia	Decatur	Dunlap
Graham Hill	Gatzert	Fairmount Park
Hawthorne	Green Lake	Fauntleroy
Hay	King	Genesee Hill
Muir	Leschi	Highland Park
North Beach	Lowell	High Point
Northgate	McDonald	Hughes
Oak Lake	McGilvra	Lafayette
W. Queen Anne	Minor	Magnolia
W. Woodland	Montlake	Maple
Whittier	Ravenna	Rainier View
Whitworth	Seward	Roxhill
	Stevens	Schmitz Park
	University Hts.	Van Asselt
	View Ridge	Wing Luke
	Wedgwood	

In addition, other schools will be added to the above list as necessary.

3. By no later than the beginning of the 1979-80 school year other elementary schools which are close to being racially balanced will undergo boundary changes, be converted to racially balanced magnet schools, or experience sufficient voluntary student movement to assure that they are not racially imbalanced.

4. Elementary schools will feed junior high and middle schools within their Zones, and junior high and middle schools will feed high schools within their Zones, according to patterns which will eliminate racial imbalance in the secondary schools as students progress in grade level. For 1978-79, only students changing from elementary schools to junior high or middle schools, or changing from junior high or middle schools to high schools, will follow newly-established feeder patterns.

5. An integral feature of the overall program for elimination of racial imbalance will be the availability of program options for students affected by these strategies, provided that selection of options does not contribute to racial imbalance. Program options within schools, magnet programs within pairs/triads, all-zone

magnets, all-city magnets, alternative schools, and special programs will be among the alternatives available to students affected by these strategies. To the extent possible the same options will be available to students not affected by these strategies.

6. For the 1978-79 school year, kindergarten students will not be required to participate in the attendance redesignation plan.

7. The Board and Administration will continue to seek the involvement and counsel of parents, staff, students, and interested citizens.

Adopted this 14th day of December, 1977.

/s/_____
Don Olson, President

/s/_____
Suzanne Hittman, Member

/s/_____
Patt Sutton, Vice President

/s/_____
Dorothy Hollingsworth, Member

/s/_____
Richard Alexander, Member

/s/_____
Ellen Roe, Member

/s/_____
Cheryl Bleakney, Member

ATTEST:_____
David L. Moberly, Secretary
Board of Directors
Seattle School District No. 1
King County, Washington

EXHIBIT 36

PREFILED WITNESS STATEMENT OF DR. GARY ORFIELD

I am an associate professor of political science at the University of Illinois, and have held that position since September of 1976. I have researched and published extensively in the field of public school desegregation. Attached hereto as Exhibit A is a true copy of my current professional vita, which accurately summarizes my academic training, professional experience and

publications. The citations in this statement and citations to be found in my various publications listed in my vita indicate the type of facts or data upon which I rely in making the conclusions set forth in this statement. These facts and data are of the type reasonably relied upon by experts and social scientists in the field of public school desegregation in forming their opinions.

My most comprehensive work on desegregation is *Must We Bus? Segregated Schools and National Policy* (Washington: Brookings Institution, 1978, 470 pp.) (Exhibit 37), which examines the factors which have produced segregated public schools, and the prospects for improvement of the school segregation situation nationally in light of segregated residential housing, and concludes that assignment and transfer of students away from neighborhood schools is realistically the only way the public schools in American urban centers can be desegregated in this century.

Residential segregation in most major American cities, as in Seattle, is very high, and on a metropolitan level may well be increasing, so that adherence to a neighborhood school assignment policy has the predictable effect of school segregation.[1]

Typical processes of ghetto expansion are still very important. In many American cities during the last 30 to 60 years, residential areas of predominant minority occupancy have greatly expanded. Often an increasing black or Hispanic population has moved into housing formerly occupied by (Anglo) whites. This process of "racial succession" or "ghettoization" has been perceived as a relentless "natural" force, yet it is in fact governed by institutional policies and practices as well as private prejudice and is not at all inevitable. The process is a textbook example of

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[1]Frank deLeeuw, Anne B. Schnare, and Raymond J. Struyk, "Housing," in William Gorham and Nathan Glaser eds., *The Urban Predicament* (Washington: Urban Institute, 1976), pp. 145-55. The increase in metroplitan residential segregation during the 1960's is documented in van Valley, Roof and Wilcox, "Trends in Residential Segregation: 1960-1970," *American Journal of Sociology* Vol. 82 (Jan. 1977), pp. 826-844.

a self-fulfilling prophecy. The expectation by whites that an area will become black leads them to take individual and collective actions that ensure the outcome. Housing market barriers against sale or rental to blacks are reduced, panic selling tactics often stimulate white residents to leave, and potential white immigrants from other parts of the city are steered away from the neighborhood because it is "turning" or "going."

Change in the racial identifiability of a school can influence the pace of change in racial composition in a "changing" residential area.[2] In contrast, a school with a stable racial mix connotes to nearby residents and potential in-movers that they will not be forsaken by school authorities. School policies can serve to "coalesce a neighborhood and generate confidence in its continued stability."[3].

Housing patterns cannot be explained simply by income level of minority and majority families. For instance, the average white family in the United States with an income below the official poverty line lives in a neighborhood with a higher average income than the neighborhood where the average black family with a $25,000 a year income lives.[4] If institutional and societal pressures did not operate to discourage blacks and other minorities from seeking housing commensurate with their ability to pay, black families would appear more proportionately in neighborhoods containing housing stock commensurate with their ability to pay. Most blacks would live in the suburbs if they were distributed the same way as whites with similar incomes. Reliable studies with which I am familiar show that blacks prefer to live in integrated

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[2]Wolf, "The Tipping Point in Racially Changing Neighborhoods," *Journal of American Institute of Planners*, v. 29 (1963), 217-222, esp. 220-1; white enrollment decline in a single school declines faster as the percent black population rises. (Michael Giles, "White Enrollment Stability and School Desegregation: A Two-Level Analysis," *American Sociological Review* Vol. 43, 1978.)

[3]Vandell and Harrison, *Racial Transition in Neighborhoods* (Cambridge: Joint Center for Urban Studies, 1976), 13.

areas by very large margins. A new study of metropolitan Detroit, for example, shows that black desire for integrated housing is even higher than the civil rights movement of the 1960's. (Reynolds Farley and associates, "Chocolate City, Vanilla Suburbs: Will the Trends Toward Racially Separate Communities Continue?" — *Social Science Research*, Vol. 7 (Dec. 1978), pp. 319-344).

In 1917 the Supreme Court prohibited local zoning ordinances which established separate areas for blacks and whites.[5] However, even in areas where that ruling was respected, enforcement of housing segregation was still successfully accomplished through racially restrictive deed covenants. Such covenants were allowed until the decision in *Shelley v. Kraemer*, 344 U.S. 1 (1948), held that judicial enforcement of racially restrictive covenants was unconstitutional state action.

Official policies and practices of Federal housing agencies which were dominant forces both in the subsidized housing market and much of the private market were openly segregationist until 1948. After that period, by admission of ranking federal housing officials, no significant initiative segregation was taken until the 1967-68 period. Research on the impact of the dominant housing subsidy programs of the late 1960's and early 1970's strongly suggests that they had the consequence of subsidizing the flight of low income whites from integrated areas and subsidizing the location of minority families in segregated or transitional areas. A recent HUD study of the private housing market revealed strong continuing discriminatory policies. HUD Secretary Patricia Harris has recently testified before Congress that federal fair housing law has failed.[6]

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[4]Brigitte Mach Erbe, "Race and Socioeconimic Segregation," *American Sociological Review*, vol. 40 (December 1975), pp. 804, 809.

[5]*Buchanan v. Warley*, 245 U.S. 60 (1917).

[6]Federal Housing Administration, Annual Report (GPO, 1935), p. vi.; Rose Helper, *Racial Policies and Practices of Real Estate Brokers* (University of Minnesota Press, 1969), p. 202; and Richard Resh, *Black America* (D.C. Heath, 1969), pp. 104-05; Martin Meyerson and Edward

The major housing subsidy programs of the late 1960's and 1970's (Section 235, Section 236 and Section 8) have produced substantial numbers of housing units in white areas but have marketed these units very largely to low income whites while subsidizing blacks in ghetto and transitional areas.

Continued segregation during the recent rise nationwide in housing prices has now effectively shut off minorities from home ownership in many areas.[7] Thus, the combination of past segregative actions and recent and present price increases has, as a practical matter, worked to insure that minorities will not be substantially involved in the process of "naturally" integrating neighborhoods in the near future.

Current studies indicate that only enthusiastic government intervention can now desegregate housing.[8] Sanctions and positive incentives are needed to accomplish this goal. In this climate, it is clear that "natural" integration of the schools is too slow, unless the Nation is willing to accept at least generations more of segregated public schooling.

C. Banfiled, *Politics, Planning, and the Public Interest: The Case of Public Housing in Chicago* (Free Press, 1955), p. 121; Commission on Race and Housing, "Where Shall We Live?" in William L. C. Wheaton, Grace Milgram and Margy Ellin Meyerson, eds., *Urban Housing* (Free Press 1966), p. 281; National Committee Against Discrimination in Housing, *How the Federal Government Builds Ghettos* (NCDH, 1967); speech by Philip Maloney, FHA Deputy Commissioner, reprinted in *Congressional Record* (December 5, 1967), p. 35023. Commission on Civil Rights, *Home Ownership for Lower Income Families: A Report on the Racial and Ethnic Impact of the Section 235 Program* (CPO, 1971) unpublished tabulations of Section 8 location statistics by Richard Fleisher, University of Illinois; Testimony of James T. Lynn, secretary of HUD, in *Oversight on Housing and Urban Development Programs, Washington, D.C.*, Hearings before the Senate Committee on Banking, Housing, and Urban Affairs, 93:1 (GPO, 1973), pt. 1, pp. 243-94.

[7]Gary Orfield, *Must We Bus?* (The Brookings Instituion 1978), p. 89.

[8]Anthony Downs, *Opening Up the Suburbs: An Urban Strategy for America* (Yale University Press, 1973); Commission on Civil Rights, *Equal Opportunity in Suburbia* (GPO, 1974).

Reynolds Farley, a leading racial demographer, concluded in a 1975 study that given present trends, schools organized on a neighborhood basis would remain segregated indefinitely in this country.[9] The same study showed that blacks are not represented in their income level in neighborhoods at anywhere close to the levels of their ability to pay would suggest.

School integration may indeed be a prerequisite for stable housing integration. For instance, two cities which successfully desegregated their schools in the 1960's, Berkeley and Sacramento, had among the highest levels of housing integration in American cities (fifth and third, respectively) in the 1970 census. Evanston, Illinois, which had an early desegregation program, reduced its level of housing segregation in spite of the increases in housing costs. Thus, it is apparent that district-wide school desegregation contributes to residential integration.[10] In Riverside, California some families moved to be near a school to which their children were being bused. Thus, school desegregation gave impetus to residential integration.[11] In Louisville, Kentucky the exemption of integrated neighorhoods from the busing program there has reportedly stabilized the racial composition of the exempted neighborhoods.[12] It appears that one key to stabilizing neighborhoods and preventing them from

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[9]Reynolds Farley, "Residential Segregation and Its Implications for School Integration," *Law and Contemporary Problems*, vol. 39 (Winter 1975), p. 167.

[10]Orfield, *supra*, p. 97. Sorensen, Taeuber, and Hollingsworth, "Indexes of Racial Residential Segregation," pp. 7-9.

[11]Christine Rossell, "The Social Impact of School Desegregation," Research Proposal to National Institute of Education (1974); processed), p. 11.

[12]Kentucky Commission on Human Rights, "Fair Housing—A Better Answer than Busing" (September 22, 1975; processed). The number of blacks living in the suburbs increased 63 percent between 1973 and 1977; residential segregation diminished in exempt neighborhoods. *Integrated Education* (September-October 1977), p. 33. [Unfortunately, although all will agree that fair housing is preferable to busing, enforcement of fair housing laws has been extremely weak according to a 1978 report to HUD.]

"tipping" from integrated to minority imbalanced is to retard the transition process by guaranteeing that the schools will remain integrated.[13]

If, as can easily be established, the values of the neighborhood school and public school desegregation are mutually exclusive, the real issue which must be faced is: Which should have priority? Are "neighborhood schools" of greater importance, even if they guarantee perpetuation of public school segregation? Or is desegregation more important than neighborhood schools, even if requires busing?

As it is my understanding that the educational soundness of public school desegregation is not in question in this case. I do not at this time offer any observations on that subject.

The Ineffectiveness of Voluntary Approaches to School Desegregation

"Freedom of choice" or "voluntary" desegregation plans such as Initiative 350 would direct, are ineffective to accomplish the elimination of racial imbalance in big city schools. Only one urban school district in the U.S. has achieved a large degree of success in desegregation through "voluntary" approaches. In Milwaukee many schools have come within judicial guidelines through voluntary transfers. These transfers were not, however, strictly voluntary. The school district was under strong pressure since the court order said that there would be mandatory reassignments if the plan failed, and indeed, a substantial amount of the student movement — especially minority movement — is "mandatory." Without such an order, and very strong pressure on administrators to produce transfers throughout the system, the progress achieved

[13]In two recent lower court decisions as to which the Supreme Court has denied review, past discriminatory housing practices by governmental entities have been held to be among the grounds for *interdistrict* school desegregation orders. *U.S. Board of Commissioners of the City of Indianapolis, Indiana*, 541 F.2d 1211 (7th Cir. 1976); *Evans v. Buchanan*, 393 F. Supp. 428 (D. Del. 1975) (Wilmington, Delaware).

would not have occurred. Moreover, the system still leaves substantial numbers of black children in highly segregated black schools that have been drained of their most highly motivated students and their families. My latest information is that the parties in Milwaukee have reached a settlement under which mandatory movement will comprise a substantial portion of desegregation movement. This settlement has yet to be approved by the Court.

In most cities voluntary plans have been dismal failures. Chicago's $35 million effort this year brought transfer of less than one percent of the students. Philadelphia's magnet plan produced some magnet schools more segregated than they were before they were "magnetized." Plans have failed to achieve substantial integration in Houston, San Diego, St. Louis, and a number of other cities. Especially given the previous failure of the magnet plan in Seattle to reduce the number of segregated schools, it is extremely unlikely that a voluntary-only approach would now work. To the extent that it did work it would produce almost totally one-way desegregation, since efforts to draw whites voluntarily into big city minority area schools have failed badly. * * *

EXHIBIT 37

EXCERPTS FROM BOOK "MUST WE BUS" BY DR. GARY ORFIELD

* * *

Does School Desegregation Cause Residential Resegregation?

During 1975 debate among both scholars and policymakers was stimulated by a brief paper by James Coleman in which he stated that increases in school desegregation under some circumstances produced an accelerated departure of white families from the cities.[76] Antibusing leaders used this research to argue that busing students

was not only unpopular but senseless, producing a result exactly opposite from its intent.

But Coleman's actual assertions were far more limited than the antibusing argument implied. Declines in white enrollment, Coleman reported, were rapid in central cities with sizable black populations *whether or not* schools were integrated Desegregation, he suggested, may intensify the problem temporarily in the largest cities. (Very few big cities had carried out any kind of citywide desegregation plan by this time.) This does not mean, of course, that people were fleeing solely because of the race issue. A city with a high proportion of minority residents usually has a number of other problems — housing decay, outward migration of jobs, rising crime rates, increases in the costs of public services and tax levels. All of these may influence the decision of a family looking for housing or of a realtor recommending locations to a newcomer to the area. In larger urban areas the problems are often compounded when the number of private homes in the central city steadily declines and virtually all new construction is in the outer suburbs.

The waning attractiveness of central cities is mirrored in the attitudes of the people still living in them. Surveys by leading polling organizations — Gallup, Harris, Roper, and Opinion Research Corporation — have shown that the percentage of city residents who would stay if they had a choice has shrunk — from 22 percent in 1966 to 13 percent in 1972 — in part, perhaps, because of the riots of the late 1960s.[77]

After two years of heated dispute over Coleman's argument it was still not clear whether desegregation plans increased the rate of white departure. One 1977 study, for example, argued that public reaction to underlying demographic changes in the city and to deteriorating city conditions would explain the statistical trends of white enrollment without any reference to desegregation plans at

[77]See summary of poll data in James L. Sundquist, *Dispersing Population: What America Can Learn from Europe* (Brookings Institution, 1975), pp. 24-29.

all.[78] Most scholars believed, however, that there was a significant one-year accleration of white flight in big cities where a plan limited to the city only was implemented. Perhaps the enrollment decline in a single year would be that normally expected in two years.

Desegregation, in any case, neither creates flight where there was none nor has a long-term impact on the rate of declining white enrollment. Large central cities are losing their remaining white students rapidly even in neighborhoods with all-white schools. Often the decline is sharpest in aging, well-to-do white communities some distance from minority areas. To understand, one needs only to look at the age level of the female population remaining in the city. In 1970 the median age for white females still in Washington, D.C., was forty-six, in Chicago thirty-seven, in St. Louis forty-four, in Detroit forty, in San Francisco forty-one. On the average, black women in these cities were seventeen years younger. Black families were often in the middle of their child-bearing years. Young white families were in the suburbs. The imbalance in school enrollments could only increase.[79]

Coleman's study, as well as an intensive study of Florida school districts based on interviews with thousands of parents, suggests that where the desegregation plans include the suburbs residential stability is greater. Coleman and Farley report that the problem becomes most difficult when the central cities have large minority populations and the suburbs are virtually all white. There is considerable stability, on the other hand, in metropolitan school districts where there is no

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[78]Michael R. Fitzgerald and David R. Morgan, "Assessing the Consequences of Public Policy: School Desegregation and White Flight in America," paper presented at the annual meeting of the Midwest Political Science Association, April 22, 1977 (processed).

[79]David Sly and Louis Pol, "White Flight, School Segregation and Demographic Change," in Meyer Weinberg and others, *Three Myths: An Exposure of Popular Misconceptions about School Desegregation* (Atlanta: Southern Regional Council, 1976), pp. 62-63.

place to flee to.[80]

Desegregation of entire metropolitan areas maximizes stability. In other words, the smallest desegregation plans may have the worst effects on housing integration and the largest may create the most favorable conditions. The smallest create easily accessible haves of segregation; the largest equalize the burden, raise the cost of flight, and diminish the differeneces between city and suburban schools. Policymakers and judges who attempt to minimize flight by limiting the area of desegregation may be following exactly the wrong strategy.

* * *

Public Beliefs

In his classic 1944 study, *An American Dilemma*, Gunnar Myrdal probed the contradictions between American ideals of racial equality and American practices of segregation.[22] Each step toward desegregation since then has required recognition of these contradictions. Eventually, for example, it became clear that the only way to achieve desegregation in the South was to alter the tradition of local control in major ways. Contradictory beliefs about local control and equal rights were held for as long as possible. Only at a time of crisis — blatant actions by Alabama and Mississippi officials in 1963-65 — was the

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[80]Coleman found that flight was greatest "where there was a high degree of between-district segregation in the metropolitan area (thus providing a supply of predominantly white suburban schools to which families could move)," and "in districts with higher proportions of Black children." He explains the stable enrollment of a district like Hillsborough, Florida (metroplitan Tampa), by pointing out the absence of white suburban sanctuaries and the relatively small proportion of black students in the district as a whole. James S. Coleman, "Liberty and Equality in School Desegregation," *Social Policy*, vol. 6 (January-February 1976), pp. 10-12. Reynolds Farley, "Can Governmental Policies Integrate Public Schools?" (University of Michigan, Population Studies Center, 1976; processed).

[22]Gunnar Myrdal with Richard Sterner and Arnold Rose, *An American Dilemma: The Negro Problem and Modern Democracy* (Harper and Row, 1944).

contradiction resolved in favor of decisive national action. But there has been neither a major social movement nor political leadership to effectively point out that a dilemma still exists. People continue to support school desegregation and to oppose busing, refusing to recognize the incompatibility of their values and believing that there is some other way to achieve integration.

Growing Support for Integration

Increasing support for integrated schools has been a clear pattern in successive studies of public opinion over the decades. Three decades of surveys by the National Opinion Research Center showed remarkable growth of a consensus supporting integrated schools between 1942 and 1970. In 1942 only two northern whites in five supported integrated schools. Support had risen to three in five by 1956 and to more than four in five by 1970. The changes were notable in the South. In 1942 supporters of integrated education were a tiny minority, only 2 percent, of white southerners. Two years after the 1954 Supreme Court decision in *Brown*, the level had risen to 14 percent. By 1970 almost half of southern whites favored integrated schools.[23] A social movement — civil rights — had brought congressional action and administrative enforcement. After desegregation was imposed, the inconceivable became the new status quo.

Table 4-1. *Percentage of White Parents Objecting to Integrated Education, by Proportion of Black Students, Selected Years, 1959-75*

School level of black enrollment	*1959*	*1963*	*1965*	*1966*	*1969*	*1970*	*1973*	*1975*
South								
Few	72	61	37	24	21	16	16	15
Half	83	78	68	49	46	43	36	38
Majority	86	86	78	62	64	69	69	61

[23]Andrew M. Greeley and Paul B. Sheatsley, "Attitudes Toward Racial Integration," *Scientific American* (December 1971), pp. 13-14.

North								
Few	7	10	7	6	7	6	6	3
Half	34	33	28	32	28	24	23	24
Majority	58	53	52	60	54	51	63	47

Sources: *Gallup Opinion Index* (February 1976), p. 9; George H. Gallup, *The Gallup Poll: Public Opinion 1935-1971* (Random House, 1972), vol. 3; *1959-1971*, pp. 1598, 1940-41, 2010, 2211.

Answers to a related series of questions asked by successive Gallup polls in eight different years from 1959 to 1975 showed dwindling public opposition to integrated schools during the period, especially in the South during the 1960s, the region and period in which massive desegregation was concentrated (see table 4-1). Southern attitudes steadily moderated as integration proceeded. Between 1959 and 1975 the percentage of southern whites willing to send their children to school with a few black children grew from 28 to 85, while the number expressing "no objection" to their children's enrollment in half-black classrooms grew from 17 to 62 percent. At least nine-tenths of northerners were willing to accept some blacks in their schools throughout this period, and the number claiming that they had "no objection" to half-black schools grew from 66 percent to 76 percent.

Declining Support for Civil Rights Enforcement

Even as acceptance of integration was growing, public support for further action against racial discrimination virtually disappeared. The issue had dominated American politics at the time of the Birmingham crisis in 1963, during the subsequent congressional battle over President Kennedy's civil rights bill, and during the Selma march and voting rights struggle of 1965. Polls at that time showed that people saw action against discrimination as the most important question before the country. This public concern supported congressional passage of the two most important civil rights laws since Reconstruction, but it soon waned. Between March 1965 and May 1966, the percentage of people convinced that civil rights was the nation's most important problem plummeted from 52 to

9.[24] Though these levels fluctuated considerably, there was little support for accelerating integration. The social issues of crime and violence became dominant, urban riots across the country increased racial tension, and the polls showed growing resistance to further racial change. One scholar concludes that the opposition of national leaders (including the President after 1968) to desegregation enforcement may well have accelerated the trend. By the end of the 1960s, public opinion approximated "a state of moderate consensus *against* these civil rights initiatives."[25]

During the early 1970s, the public seemed less and less concerned. A national study of the hopes and fears of Americans in 1971 found that only one person in ten rated "settlement of racial problems" as a hope for the nation, down substantially from earlier measures in 1959 and 1964.[26]

The "problems of black Americans" again received low priority in a 1972 public ranking of national matters of concern. On a list of twenty-seven issues, they ranked twenty-fourth.[27]

A similar careful study of public attitudes, two years later in April 1974, found that the "problems of black Americans" ranked lowest among thirty issues studied. The most important issues were inflation, violence, and crime.[28]

Perhaps people paid little attention to civil rights because they believed that progress was occurring spontane-

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[24]George H. Gallup, *The Gallup Poll: Public Opinion 1935-1971* (Random House, 1972), vol. 3: *1959-1971*, pp. 1934, 2009.

[25]J. Michael Ross, "Resistance to Racial Change in the Urban North" (Ph.D. dissertation, Harvard University, 1973), p. 123, chap. 3, and p. 253.

[26]Albert H. Cantril and Charles W. Roll, Jr., *Hopes and Fears of the American People* (Universe Books, 1971), p. 23.

[27]William Watts and Lloyd A. Free, eds., *State of the Nation* (Universe Books, 1973), p. 35.

[28]William Watts and Lloyd A. Free, *State of the Nation 1974* (Potomac Associates, 1974), pp. 20-21.

ously. Almost one-fifth thought there had been substantial recent progress and another half believed there had been some. Only one in nine thought that blacks were losing ground. In fact, the American public expressed more optimism about progress on race relations than on any other domestic problem studied.[29]

These feelings were evident in public responses to Harris Survey questions asked in 1976 and 1977. During 1976 pollsters found that a 75-7 percent majority of whites believed that blacks were not discriminated against in public education. After more than two-thirds of the American public watched the 1977 eight-day television series *Roots*, which portrayed the history of slavery and discrimination, the Harris Survey asked white viewers the same question. White attitudes were held so strongly that this unprecedented experience had had little effect: 73 percent of the white viewers said there was no school discrimination and only 18 percent took the opposite position.[30]

Even at the height of the civil rights movement, when there were large majorities for action against segregation in public accommodations and other distinctively southern problems, the public was lukewarm on the issue of federal action to assure integrated schools. Polls conducted between 1964 and 1970, as well as a follow-up survey in 1974, showed that white support for such action never came close to 50 percent, and the unpublished 1974 data reportedly showed less white support than any of the previous polls.[31] Equally interesting in the survey ws the

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[29]Ibid., pp. 278, 305. Earlier reseach showed that most white Americans believed the problems of blacks were the result not of discrimination but of some failing of the blacks themselves. The reason most commonly cited with lack of motivation. Howard Schuman, "Free Will and Determinism in Public Beliefs about Race," in Norman R. Yetman and C. Hoy Steele, eds., *Majority and Minority: The Dynamics of Racial and Ethnic Relations* (Allyn and Bacon, 1971), p. 390.

[30]Harris Survey, published in *Chicago Tribune*, April 11, 1977.

[31]Institute for Social Research Survey reported in *New York Times*, August 18, 1975.

strong and consistent black support for federal enforcement of school desegregation even after the rise of the black power and community control movements.[32]

	Percent favoring federal action	
	Black	*White*
1964	68	38
1968	84	33
1970	84	41

The confidence of blacks in the federal government, however, had sharply declined. A 1972 Harris Survey found that most of them believed the Justice Department had become antiblack. While 72 percent said they had "depended on the Federal government a great deal for black progress" under Presidents Kennedy and Johnson, only 3 percent expressed similar faith about the commitment of the Nixon administration.[33]

Skepticism

When the busing issue arose in the 1970s, then, the public was not only uninterested in further desegregation but almost skeptical about the national government and the nation's schools. Most respondents to a question in a 1974 survey, for example, said that the "people in power" no longer cared about ordinary people, a severe erosion of confidence since 1966, when the same question was asked. More than two-thirds of the public believed that the government had "consistently lied to the American people over the last ten years."[34]

Nor was there much public confidence in the school system. A Gallup poll conducted in late 1973 showed, for instance, that the general level of dissatisfaction with

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[32]Angus Campbell, *White Attitudes Toward Black People* (Institute for Social Research, 1971), pp. 130-31.

[33]Louis Harris, *The Anguish of Change* (Norton, 1973), pp. 231, 232, 240.

[34]Patrick Cadell survey, reported in *New York Times*, April 15, 1974.

schools had risen from a low of 18 percent to 29 percent in just seven years. It was highest in the largest cities, reaching 40 percent in cities of over a million people and 34 percent in those of half a million to a million.[35] Although a 1966 Harris Survey found that 61 percent of the people had "a great deal of confidence" in education, in 1972 only 31 percent held similarly positive views. Much of the southern desegregation had taken place in an atmosphere of public support for education and rapidly growing national aid. Both were diminishing when the issue came up in the big cities of the North and West.

Things were even worse by the mid-1970s. Only one-eighth of the respondents rated the schools as excellent in 1975 and 1976 surveys. The young and college-educated were even more critical. People were most concerned, as they had been for seven of the eight previous years, about the lack of discipline in public schools.[36] Conditions could hardly have been less favorable for launching a governmentally imposed racial change in the public schools.

A Consensus Forms

Busing became a national issue distinct from school integration in the late 1960s and early 1970s. The major developments took place between 1970 and 1972, a period that brought the first major urban court orders, the first decisions in the North, the threat of suburban desegregation, and a presidential campaign emphasizing the issue.

At first public opinion about busing was confused. Basically the same question, if worded differently, produced different answers. By the early seventies opposition had become intense on virtually any question touching on busing.

The shift from indecision to polarized opposition is shown in two Harris Surveys. One, in 1971, found that Americans were willing to have their children bused for

[35]*Gallup Opinion Index* (December 1973), p. 25.

[36]Gallup polls, as reported in *New York Times*, December 17, 1975, and September 21, 1976.

court-ordered desegregation by a slim 47-41 percent majority. The next year, during the presidential primary campaigns, opponents outnumbered supporters almost 3-1.[37]

The early Gallup polls asked the question differently and got a more negative response. In 1970 and 1971 Gallup asked whether people supported "busing of Negro and white school children from one school district to another." The question not only neglected to say why they were bused but also could be read as referring to city-suburban cross-district busing. Because it ignored the goal, integration, respondents did not have to make the difficult choice. In both years less than one-fifth of the public supported busing.[38] Thus interpretation of many of the early polls is complicated because the questions contained misleading, inaccurate, or emotionally laden words like "racial balance" and "enforced busing" but rarely state the reason for busing.[39]

These subtleties, however, mattered less after the antibusing consensus formed. By the time of the 1972 election, responses were overwhelmingly negative even when the question was carefully phrased:[40]

In areas where the courts have found unlawful segregation of white and black school children the courts have ordered desegregation, including busing where necessary, so that whites and blacks will not be kept from attending school together. Do you favor or oppose such busing?

Favor	*Oppose*	*No opinion*
21%	70%	9%

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[37]Peter Gall, *Desegregation: How Schools Are Meeting the Historic Challenge* (Arlington, Va.: National School Public Relations Association, 1973), p. 7.

[38]*Gallup Opinion Index* (September 1971), p. 20.

[39]"Racial balance" was described as the goal of busing in a Harris Survey cited in *School Busing*, Hearings before Subcommittee No. 5 of the House Committee on the Judiciary, 92:2 (GPO, 1972), p. 1751; "enforced busing" was used in Watts and Free, eds., *State of the Nation*, p. 100.

[40]U.S. Commission on Civil Rights, "Public Knowledge and Busing Opposition" (1973; processed), p. A-1.

Numerous surveys since that time have shown similar polarization. A February 1976 national poll, for example, found that 71 percent, when asked if they favored "racial integration of the schools . . . even if it requires busing," were opposed.[41]

Causes of the Opposition

Obviously the question of busing raises a distinctive set of fears and beliefs. Available data permit analysis of some of these fears and speculation about others.

People are deeply divided, for instance, about the consequences of desegregation for education and for improving race relations. A 1971 Gallup poll showed that people believed that integration improved education for blacks, but only by a relatively narrow majority of four to three. Most respondents thought it had not helped white children: fewer than one in four thought integrated schools were better for whites,[42] and a large number were convinced that education was downgraded for whites. A 1971 poll found that only 15 percent of whites thought court-ordered integration had a good effect on children in general and 60 percent believed it had a bad effect. Two out of three blacks believed the opposite.[43] When asked in 1972 whether the Supreme Court had "ordered busing in spite of evidence that it would harm a child's ability to learn," 41 percent of the respondents thought the Court had done this, and only 31 percent disagreed. When asked whether "white students' test scores have fallen sharply in desegregated schools," more than one-fourth of the respon-

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[41]New York Times-CBS Survey, *New York Times*, February 13, 1976. Similar results were reported in a May 1976 *Washington Post* poll, which found 76 percent opposition, *Washington Post*, May 16, 1976.

[42]Stanley Elam, ed., *The Gallup Polls of Attitudes Toward Education*, 1969-1973 (Bloomington, Ind.: Phi Delta Kappa, 1973), pp. 112-13.

[43]Opinion Research Corporation poll data reported in Sandra Kenyon Schwartz and David C. Schwartz, "Convergence and Divergence in Political Orientations between Blacks and Whites: 1960-1973," *Journal of Social Issues*, vol. 32 (Spring 1976), p. 66.

dents, both white and black, thought this had happened. Public confusion was evident also in the large numbers of people unable to express an opinion on these issues. Those who believed that white students' scores had dropped sharply after desegregation were more than twice as likely to oppose integration as those who did not.[44]

Many people had accepted as true the claims of busing critics. The majority of both whites and blacks, for instance, thought that busing expenses were more than ten times the actual average local cost. Although the cost was usually about 2 percent or less of a school system's budget, six people in seven polled in 1972 thought it was at least 25 percent. Only one person in six could correctly answer more than half of a short list of true-false factual questions about busing; two out of five either got every question wrong or answered only one correctly. The skewed results, the Civil Rights Commission concluded, showed that people had been actively and successfully "misinformed" about the issue by public leadership. The more accurate a citizen's information, the more likely he or she was to oppose antibusing legislation.[45]

In view of public concern about discipline in all schools and antibusing speeches about endangering children, one would expect whites to fear disorder or danger to children in ghetto schools. A 1977 survey in Los Angeles found that 65 percent of white respondents believed that "desegregation will risk the safety of students."[46]

The Persisting Dilemma

Poll data that consistently show three out of four

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[44]Opinion Research Corporation, "Public Knowledge and Attitudes Regarding School Busing," report to Commission on Civil Rights, November 1972 (processed), p. 27.

[45]Ibid.

[46]Los Angeles Unified School District, "Results of L.A.U.S.D. Survey," submitted to the Superior Court for the County of Los Angeles, June 6, 1977 (processed).

people against a policy suggest firm, polarized opinion on an issue. The important thing to remember in this case, however, is that these strongly held attitudes coexist with continued affirmation of integrated education as a national goal. The condition for achieving closed minds about busing is success in insisting that it and integration are separate issues.

Virtually all of the court decisions and voluntary local plans, however, are based on exactly the opposite conclusion — that busing is the *only* available way to end urban segregation. In the cities, the courts have found, the issues cannot be separated.

When the Opinion Research Corporation in 1972 asked questions forcing respondents to choose between busing and segregation, its field staff encountered stiff resistance to answering them. Administering the questions took twice as long as normal and many respondents asked the interviewers to stop the interview and note that they were not prejudiced.[47] The answers to the questions were far more complex than those produced by most polls. Although only 21 percent of the respondents favored busing when asked about the question in a general way, a follow-up question showed that another 15 percent would support using existing school buses on new routes to increase integration. (This would accomplish substantial desegregation in many districts.) Among those still opposed, another 7 percent said that they would support busing as a "last resort" if they were convinced that there was no other way to overcome unlawful segregation.[48] In the end, more people supported some kind of busing, under some conditions, than opposed it. Among blacks, 71 percent favored some busing if essential for desegregation and 16 percent opposed (some had no opinion).

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[47]Comments made to author by Frederick Mason, vice-president, Opinion Research Corporation, November 1972.

[48]Commission on Civil Rights, "Public Knowledge and Busing Opposition," p. 9.

Table 4-2. *Public Attitudes toward Integration and Busing, 1974*
Percent

Policy favored	*All respondents*	*Black respondents*
Integration, even with long-distance busing	6	18
Maximum integration with short-distance busing	16	14
Voluntary open enrollment and busing	20	15
Neighborhood schools	50	33
Don't know	8	10

Source: Potomac Associates poll conducted by Gallup, reported in Watts and Free, *State of the Nation 1974*, pp. 109-10.

Related questions were asked in a 1974 survey examining preferred policies on education and race (table 4-2). Forty-two percent of the respondents supported some kind of busing and 50 percent supported a strict neighborhood school policy. A 1972 Harris Survey showed that a major factor in the strong opposition of whites to busing was the fear of reverse busing of white children into central city ghetto and barrio schools. The pollsters found that although three-fourths of the public opposed busing in general only 46 percent opposed one-way busing.[49]

There is little evidence to support the assertion that either busing per se or attachment to neighborhood schools was the cause of white opposition. A 1975 Harris Survey reported that 74 percent of the respondents were opposed to "busing school children to achieve racial balance." The survey also discovered, however, that the children of many of the parents who responded critically were already being bused for other reasons (52 percent of public school students in the United States ride the bus to school). By a 9-1 majority, these parents reported that busing was convenient; seven in eight expressed general satisfaction with their children's busing.[50] In other words,

[49]Schwartz and Schwartz, "Convergence and Divergence," pp. 157, 158.

[50]Harris Survey, news release, October 2, 1975.

when people were asked about desegregation, they said they were really only opposed to busing, but when they were asked about busing, they said that it was fine unless it was required for integration.

Table 4-3. *Preferred Means of Achieving Integration in Schools, 1973 and 1975*
Percent

Policy favored	*1973*	*1975*
Low-income housing in middle income neighorhoods	22	18
Alter school boundaries	27	31
Busing	5	4
Do something else	22	19
No opinion	17	11
Oppose integration	18	17

Sources: *Gallup Opinion Index*, October 1973, p. 14, and February 1976, p. 10.

A very different set of questions asked by the Gallup poll in 1973 and 1975 showed that though busing had little intrinsic appeal most people still wanted to do something to achieve integration in urban schools. When asked "Which, if any, of these ways do you think would be best to achieve integration in public school?" only about one-sixth of the respondents opposed integration (table 4-3). Given the choice of doing something other than busing — and the question clearly implied that there was a feasible choice — most preferred not to rely on buses. (This survey has frequently been cited on the floor of Congress as proof that 95 percent of the public opposes busing. However, the questions were not actually about busing but about *preferred* means to achieve integrated education.) Almost one-fifth of the respondents said they were prepared to support a change in housing policy calling for building low-income housing in middle class communities and almost one-third would support altering school boundaries to increase integration.

Boundary changes are nearly always part of a deseg-

regation plan and are often sufficient for small communities. In large cities, however, such changes tend both to leave most schools segregated and to accelerate racial transition in the neighborhoods immediately adjoining the ghetto, intensifying the very process that undermines stable integration. Constructing low income housing in any neighborhood has been extremely difficult since the Nixon administration shut down the major low-income programs in 1973. If these factors had been included in the Gallup questions, the pattern of opinion on busing would almost certainly have been more ambiguous.

Taken together, these surveys show that a great many people wish to do something but that most are reluctant to accept the idea that busing is necessary. For most Americans, the busing issue remains separate from the question of integration.

Some of the basic assumptions, propounded by officials and widely accepted by the public, can be summarized quickly. Busing is very costly. It consumes dollars that could otherwise be spent on educational improvements. It damages the education of white middle class students and does not help minority students. Often it produces increased racial hostility. It tends to speed white flight and urban resegregation. Many of the busing plans are arbitrary and irrational schemes imposed by federal judges with no interest in education. Busing, in short, is described as an extremely expensive, irrational, disruptive, and counterproductive policy. Little wonder that millions of Americans have said they support integration but reject this apparently infeasible approach.

But the dilemma remains. Housing segregation is so severe and demographic trends so unfavorable that busing is the only way to achieve integration for the foreseeable future in many communities. Often the only choice is the one people most wish to avoid — busing or segregation.

* * *

EXHIBIT 40

EXCERPT FROM PREFILED WITNESS STATEMENT OF ROBERT DORSE
(Tr., p. 17)

* * *

Q. Isn't it then an accurate statement to say that Initiative 350 was designed specifically to stop the Seattle mandatory aspect of the Seattle Plan or any other mandatory plan such as Seattle and other school districts might adopt?

A. That's extremely accurate.

MR. HALL: I don't think I have any further questions.

MR. FRANKLIN: We don't waive signature or notice of filing on that.

* * *

EXHIBIT 41

EXCERPTS FROM PREFILED WITNESS STATEMENT OF ROBERT DORSE AND C. BEN CALEY
(Tr., pp. 15, 62, 63, 142-145, 154-159, 167)

* * *

accomplishing that, CiVIC sought to seek its termination through court action or initiative action?

A. That's not entirely accurate. We foresaw that the legal action — in fact, I don't know if I responded to you the same in a prior deposition — but the legal action was, at best, from our viewpoint a delaying action, and even if we had been successful in court there would be nothing to prevent the school Board from turning around and coming forth with exactly the same plan as they had done originally and doing it in a legal manner. We were challenging the manner in which it had been derived, and they could go back and do it all over again

legally. The purpose was just to delay the implementation of the plan until such time as 350 would become law, so one strategy was sort of complimentary to the other, it wasn't an either/or thing.

Q. Yet they were both a part of the total overall strategy of CiVIC?

A. Yes.

Q. The ultimate goal of which was to prohibit forced busing in the State of Washington?

A. That's correct.

Q. And most immediately, to prohibit the mandatory busing aspects of the Seattle desegregation plan?

A. That is correct.

* * *

of the schools a part of the Seattle plan?

A. Which point is that, Mr. Hall?

Q. Three.

A. Yes, that's part of the plan.

Q. Is the pairing of schools a part of the Seattle plan?

A. This is a part of the plan.

Q. Is the merging of schools a part of the Seattle plan?

A. Not to my knowledge.

Q. Is the questering of schools a part of the Seattle plan?

A. Not to my knowledge.

Q. Does the Seattle plan encompass a concept of grade restructuring, pairing, merging or questering?

A. Not to my knowledge.

Q. Isn't it true that Section III was devised specifically in response to the Seattle plan in an effort to enumerate those characteristics of the Seattle plan which could not be utilized as an indirect method of getting around the prohibitions of Initiative 350?

A. Not necessarily so because we were concerned about that paragraph from the standpoint that it was conceivable that the district, for instance, could reconfigure everything in the north end of the city, north of the ship canal, and make it grades one, two and three and, for instance, everything south of the ship canal would be grades four, five and six and the

school district would still be able to do that under Initiative 350, with the exception that the children would then, under 350, be protected only insofar as going to the nearest or next nearest school, but that would be possible.

Q. You started answering my question with the words "not necessarily," which leads me to believe that to some extent, the question I asked could elicit a yes answer.

A. Could you please say the question again?

MR. HALL: Could you find it for me?

(Last question read back by reporter.)

MR. DORSE: I'd have to answer yes.

Q. (By Mr. Hall) Mr. Caley, you were the legislative cochairman for CiVIC?

A. (By Mr. Caley) Yes.

Q. Was that the term?

A. Yes.

Q. Who was your other co-chairman?

A. Veda Jellen.

Q. How do you spell her name?

A. V-e-d-a, J-e-l-l-e-n.

EXHIBIT 6

CiVIC NEWSLETTER #1

Citizens for Voluntary Integration Committee

This is the first issue of the CiVIC Newsletter, the purpose of which is to inform CiVIC members and contributors of CiVIC's progress, goals, positions, needs and plans. Future newsletters will be issued as needed.

Members wishing to submit information to be printed in the newsletter should submit it to their particular committee chairperson or directly to the Newsletter Editor, Ted Planta, P.O. Box 46421, Seattle 98146.

To assure that members and contributors know who is responsible for what, CiVIC's officers, directors, committee chairpersons and their responsibilities are listed as follows:

CiVIC Officers

President	Bob Dorse
Vice President	Bob Groves
Secretary	Claudine Hundhausen
Treasurer	Alan Schmitz

CiVIC Committee Chairpersons

Legislative	Ben Caley
Legal	Sam Franklin
Fund Raising	Gwen Fraser
Education	Don Carr/Al Winston
Membership	Carol Tracy
Media	Claudine Hundhausen (acting)
Communications	Ted Planta

CiVIC Directors

Bob Dorse — Chairman

Ben Caley	Sam Franklin
Carl Coyle	Claudine Hundhausen
Bob Groves	Alan Schmitz
Gwen Fraser	Al Winston

Responsibilities:

President: Presides at all general CiVIC meetings. Acts as chief spokesman for CiVIC, including release of important public information.

Vice President: Presides in the absence of the President. Coordinates all committees. Coordinates speaking engagements, meetings and speakers bureau.

Secretary: Records the minutes of meetings.

Treasurer: Has custody of the funds of CiVIC. Prepares all necessary Federal and State reports including Tax reports, Public Disclosure reports, annual corporate reports, etc.

Chairman of the Board: Elected by the board to serve as presiding officer at board meetings.

Committee Responsibilities:

Legislative: Draft a viable initiative, collect sufficient signatures to validate and promote passage in November. Also to act as liaison between CiVIC and elected officials.

Legal: Pursue legal action to stop implementation of The Seattle Plan because it was unlawfully conceived.

Fund Raising: Raise funds for CiVIC with continuing need for expansion.

Education: Formulate a voluntary desegregation/ integration plan for quality education in the Seattle Public Schools.

Membership: Expand CiVIC membership.

Media: Maximize the effectiveness of our paid advertising . . . to generate PR news releases . . . to coordinate news coverage of CiVIC's activities. Generate layouts, designs, brochures, etc.

Communications: Communicate CiVIC information to the membership.

Legislative News

INITIATIVE #350 BALLOT TITLE: SHALL PUBLIC EDUCATIONAL AUTHORITIES BE PROHIBITED FROM ASSIGNING STUDENTS TO OTHER THAN THE NEAREST OR NEXT-NEAREST SCHOOL WITH LIMITED EXCEPTIONS? VOTE YES!

Excitement reigns in the CiVIC Legislative office as presses roll out ¾ million initiatives to go to the Spokane Spokesman Review, the Tri-Cities Herald and the Seattle Times for insertion as supplements to the Sunday papers.

Meanwhile, organizing of the doorbell campaign will crest the week of March 15. With the help of CiVIC

members the goal of 2,000 signature solicitors for Sunday, March 19, is within our reach.

Legislative committee leadership have been lobbying legislators state-wide and are gratified by the response we have received. We have commitments from certain legislators allowing us to do fund raising mailings over their signature. And from others, we have offers to do mailings seeking support and distribution of initiatives.

Reporters from CBS and L.A. Times among others have been in our offices to interview CiVIC workers.

For initiatives to mail to friends and relatives state wide, who will agree to solicit signatures or to distribute to businesses in your area call the CiVIC office 632-3170. Ben Caley

Legal News

We have a trial date of July 24, 1978 to stop implementation of The Seattle Plan.

We are confident that our initiative will pass all State and Federal constitutional tests and specifically will not violate the Equal Protection clause of the 14th amendment. Our initiative is modeled largely on the Federal Equal Educational Opportunity Act of 1974 that prohibits court ordered busing. The Equal Educational Opportunity Act of 1974 (Title II of Education Amendments of 1974) Section 1714(a) provides that no court, department, or agency of the United States shall order implementation of a desegregation plan that would require transportation of students to a school other than the school closest or next closest to their homes. Sam Franklin

Fund Raising News

A giant THANK YOU to all CiVIC members that responded to our request for a $10.00 check — a little GET WITH IT or those who have not. We were able to order the initiative paper and now printing is in progress.

The BAN THE PLAN MARCH has brought in approximately $5,000.00 with a few areas not completely turned in. You have all done a great job.

There are so many fun ways that we can raise funds for our goal. In Magnolia we raised $3,000.00 at a wine and cheese party and in West Seattle we raised $4,000.00 at a cocktail party. On April 7, there will be a Western Dance in the South end, and we hope to have a date soon for one in the North end. For ticket sales information call CiVIC 682-7127. We hope to get everyone — all over town — organizing coffee hours, desserts, spaghetti dinners, garage sales, etc. We have a big job to do, but we have lots of public interest and many many hard workers. Keep up the good work. Gwen Fraser

Education News

The education committee is continuing to gather and review voluntary approaches to school desegregation as implemented in cities of comparable size to Seattle (Gretchen Stephens). A copy of San Diego's Plan was received recently (Clara Lesher). The interests of special education students and parents are being studied and coordinated with the District (Terry Boies). Terry was also appointed by Dr. Moberly to the Citizens Committee for Academic Excellence. Data on academic excellence and accountability in education is being studied (Howard Jones). Effective 3/8/78 Don Carr and Al Winston will serve as co-chairmen of the education committee since former Chairman Dieter Jahns feels that his job with Boeing will involve too much travel out of town throughout the next few months to allow him to effectively run the committee. Dieter will continue to serve the education committee and CiVIC as an education consultant. He wants to take this opportunity to thank all education committee members who have contributed not only to the efforts of this committee but also all the other CiVIC efforts to date. Dieter Jahns

Membership News

We currently have approximately 2,500 members. We

are open to members from areas all over the State, so be sure to contact family and friends in other areas of the State. Membership forms are available at the CiVIC offices, or you can duplicate the one attached. Thank you for the work you have done so far and will continue to do for securing new members. Carol Tracy

Treasurer's Report

We have raised about $30,000 in cash and checks, and $10,000 in in-kind contributions. All these funds have already been spent on incurred expenses or are committed to printing and distribution of the initiative. Alan Schmitz

CiVIC School Meetings

Members are encouraged to take steps to arrange CiVIC community meetings in their schools. You can use any Seattle Public School Building to hold a CiVIC meeting. Simply go to the school principal's office and check to see if the date you want is available. Then, fill out the Building Use Permit form. Dr. Moberly has agreed with this. (There may be a charge of $4.40 per hour for use of the building but CiVIC will be happy to pay for this.)

CiVIC Speakers Bureau

The following people are available as speakers at CiVIC community meetings or any other applicable meeting: Bob Dorse, Vicki Schmitz, Ben Caley, Sam Franklin, Gwen Fraser, Bob Groves, Dieter Jahns, George Thompson, Kerry McMahan. Contact Bob Groves at 522-1769 or Vicki Schmitz at 283-1858 if you need a speaker. Also contact them if you would be willing to be a CiVIC speaker. We need speakers!

CiVIC Office Information

CiVIC North Office — Legislative
Phone 632-3170/632-3177
Hours 9:00 to 3:00 Weekdays

CiVIC South Office — Fund Raising & Communications
Phone 682-7127
Hours 9:30 to 4:00 Weekdays

(More volunteer help is needed at CiVIC South Office (on Harbor Island). Call Gloria Coyle, 932-5539, if you can spare even a few hours.)

Write a Letter!!

Write your elected officers — State and Federal Representatives, Mayor, and City Council. Let them know how you feel about forced busing. Write the editors of the Times and P-I and your local weeklies.

Past Chairman's Message

Because of compelling business reasons, my family and I have to move to California for 16 months. We made the same kind of temporary move six years ago for the same reasons and for the same period of time. Thanks to the efforts of a tremendous group of people, CiVIC is now well on its way to victory; and we look forward to re-enrolling our children in a totally voluntary program when we return next year. The new Chairman of the Board of CiVIC will be Bob Dorse, who will also retain his current role of President. Best regards, Gary F. Roe

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CITIZENS FOR VOLUNTARY INTEGRATION COMMITTEE (CiVIC)
P.O. Box 24245, Seattle, WA 98124

MEMBERSHIP APPLICATION FORM

Name_____ Date_____ Dues Paid $1.00
Address_____ City_____ Zip_____ Donation_____
High School Area_____ Child's School(s)_____ Total_____

CITIZENS FOR VOLUNTARY INTEGRATION COMMITTEE (CiVIC) is a non-profit corporation, the specific purpose of which is to:

A. Oppose the loss of freedom inherent in mandatory school assignments based on racial or ethnic identification: and
B. To promote quality education on an equal basis for all.

Membership is open to any person sympathetic to the aims of CiVIC. People of all racial and ethnic backgrounds are welcome.

Membership expires 12-31-78

Signature_____

Telephone_____

VOTE YES ON INITIATIVE 350

CITIZENS FOR VOLUNTARY
INTEGRATION COMMITTE (CiVIC)
P.O. Box 24245, Seattle, Washington 98124

STATEMENT OF FACTS

Citizens for Voluntary Integration Committee (CiVIC) is in favor of *honest* and *effective* integration of Seattle schools. We believe that the public has been deliberately misled regarding both the legal aspects and the actual results of mandatory busing.

FACT: Seattle is *not* under any real threat of a court order to implement a forced busing program.

FACT: In the latest U.S. Supreme Court decision, which caused the desegregation suit against Dayton, Ohio schools to be *dismissed*, it was established that racial imbalance of a school system did *not* violate the Constitution as long as the schools were not intentionally segregated by School Board policy.

> *"The finding that the pupil population in the various Dayton schools is not homogeneous, standing by itself, is not a violation of the Fourteenth Amendment in the absence of a showing that this condition resulted from intentionally segregative actions on the part of the Board."* [*U.S. Supreme Court, 6-26-77*]

FACT: No Seattle School Board has intentionally created a policy that caused segregation. Even if the School Board fears that a court might find a previous action that caused some inadvertent segregation, it does not justify the massive mandatory busing program that they seek to implement — because a court could only redress the *incremental difference* in segregation that resulted from that action.

"If such violations are found, the District Court in the first instance, subject to review by the Court of Appeals, must determine how much incremental *segregative effect these violations had on the racial distribution of the Dayton school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress that* difference, *and only if there has been a systemwide impact may there be a systemwide remedy."* [*U.S. Supreme Court, 6-26-77*]

FACT: An open enrollment policy, which the Seattle School Board is free to implement at any time, would remove even the last vestige of any real court threat.

FACT: While we must assume that Superintendent Moberly, as the professional in charge of presenting a school desegregation plan to the School Board *and to the public*, was aware of the above facts, his rationale of "better a Seattle plan than a court-ordered plan" was never presented within the framework of the above facts — *which the people had a legal right to know.*

RCW 42.30 OPEN PUBLIC MEETINGS ACT 42.30.010 Legislative Declaration. "The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for them to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."

FACT: While the School Board has been telling us that we would lose HEW funds if we did not proceed

with their plan, the federal HEW budget has the Biden/Eagleton amendment which *prevents* HEW funds being used to require mandatory busing.

> *"None of the funds in this act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except to a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964."*

FACT: *Forced busing causes segregation.*

- In San Francisco, since 1971 under an $18.5 million dollar mandatory busing plan, the number of racially balanced schools has decreased from 60 to 43.
- In Los Angeles, white enrollment dropped by 25,000 students and minority enrollment decreased by 1,000 as families fled from mandatory busing.
- In Washington, D.C., white enrollment dropped from 50% of the school district to 7% in a ten year period, following adoption of a mandatory busing plan.
- In Dayton, Ohio, white enrollment dropped from 52% to 46% in only one year.
- In Boston, since 1974, white enrollment has dropped from 58,000 to 29,000.
- Pasadena public schools lost 22% of its children in only two years; Norfolk lost 20%. In Memphis the loss of white students was 35% the first year of a busing program. And Atlanta has lost 60% of its white students since the start of forced busing.

FACT: While Superintendent Moberly has admitted that to fund the proposed busing program without pas-

sage of the levy *would hurt the quality of education,* various members of the School Board have continually maintained that even if the levy fails the busing program should proceed as planned.

FACT: Incredible as it may seem, six members of the Seattle School Board have taken it upon themselves to decide what is best for our children. In the name of "education," they are determined to proceed at any cost with their preposterous, counterproductive, massive mandatory busing program — with total disregard for the disruption of our city and our lives — with total disregard for the truth about the supposed inevitability of court action — with total disregard for the actual effects of mandatory busing.

FACT: The intent of the people in electing a School Board is for those elected representatives to administer the basic educational needs of the children. They were *never* given the right to inflict their own personal moral standards on the people who elected them. "The people of this state do *not* yield their sovereignty to the agencies which serve them."

FACT: We, the people, have an historic obligation to maintain our freedom of choice, both for ourselves and for our children.

CITIZENS FOR
VOLUNTARY
INTEGRATION
COMMITTEE (CiVIC)
12-29-77

CITIZENS FOR VOLUNTARY
INTEGRATION COMMITTEE (CiVIC)
P.O. Box 24245, Seattle, Washington 98124

POSITION PAPER

1. Citizens for Voluntary Integration Committee (CiVIC) is a non-profit corporation, the specific purpose of which is to:
   A. Oppose the loss of freedom inherent in mandatory school assignments based on racial or ethnic identification; and
   B. To promote quality education on an equal basis for all.
2. Membership is open to any person sympathetic to the aims of CiVIC. People of all racial and ethnic backgrounds are welcome.
3. Our goals will be achieved through the legislative process, through whatever legal action is necessary, and by informing the public of what we are doing, why it is necessary, and how they can help.
4. We will not argue whether the Seattle School Board has the authority to implement the proposed mandatory busing program. We will simply use the legal and legislative process to remove that authority.
5. Eventual policy regarding the coming school levy, or possible recall of the School Board, will be determined at the appropriate time — based on our primary concern for long-range quality education.
6. We believe that even a moderately successful voluntary program will do far more to improve our interracial relations than a set of numbers showing compliance to an arbitrary quota.
7. We believe that an open enrollment policy, where essentially any student can attend any school in Seattle, is the best way to integrate our schools.
8. We would like to work directly with the Seattle School Board in creating a voluntary integration progam

based on open enrollment — as soon as they eliminate all mandatory aspects, including mandatory backup, from their considerations.

9. We believe that mandatory busing is unacceptable to any person who values individual freedom.

10. We are not militant — but we are determined.

/s/_____

Gary F. Roe
Chairman of the Board
12-29-77

EXHIBIT 10

350 IS FOR OUR NEIGHBORHOOD CHILDREN

Initiative 350 will return common sense to our city schools. It will save tax dollars. End unnecessary busing. Preserve our neighborhood schools. And stabilize our neighborhoods.

Initiative 350.

It guarantees children the right to attend the school nearest or next nearest their home.

It allows for exceptions, such as health, safety hazards, physical barriers, unsafe conditions, or overcrowding.

It makes sure students with special problems may be assigned to schools which meet their unique needs.

It protects the right of students to choose voluntary or optional programs.

And it keeps Seattle children in neighborhood schools.

So vote yes on Initiative 350.

For the children. And the city.

Paid for by: C.I.V.I.C.
Citizens for Voluntary Integration, P.O. Box
30054, Seattle, WA 98103, (206) 632-3177
Robert Dorsk, President

51 DATE 1/11/89

ACEB PUPUNA

SAVE OUR NEIGHBORHOOD SCHOOLS

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WE NEED NEIGHBORHOOD SCHOOLS.

Initiative 350 is a proposed state law which would guarantee children the right to attend the school nearest or next nearest their home. It would end the inconvenience and expense of the present mandatory busing program in Seattle. And most important, it would preserve our neighborhood schools.

This year, over 9,500 children in Seattle lost the right to go to their neighborhood schools. Initiative 350 would return these children to their neighborhoods, because it prevents school administrators from assigning children to schools other than those close to their homes. And that's important, because neighborhood schools help hold our neighborhoods together. They work to create a feeling of community. A sense of pride.

Without 350 our neighborhoods will suffer as families move to other communities which have kept their neighborhood schools.

Without 350 our children won't be taught down the street, but across the city as part of a mandatory school busing program.

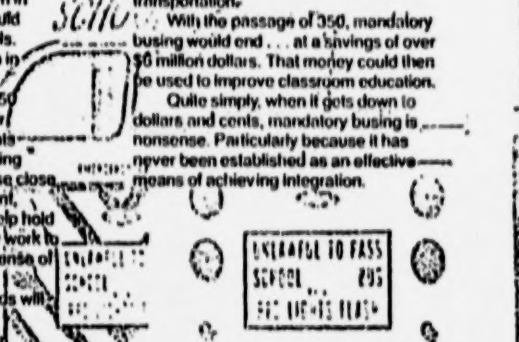
DOLLARS WASTED ON BUSING NONSENSE.

While mandatory busing is disrupting the strength of our neighborhoods, it's also costing the taxpayers a pretty penny.

Busing in Seattle presently costs over $480.00 per student . . . three times what other school districts in our state spend on transportation.

With the passage of 350, mandatory busing would end . . . at a savings of over $8 million dollars. That money could then be used to improve classroom education.

Quite simply, when it gets down to dollars and cents, mandatory busing is nonsense. Particularly because it has never been established as an effective means of achieving integration.



SEATTLE'S BEING TAKEN FOR A RIDE TO NOWHERE.

Busing is hardly a new idea. It's been tried in Detroit, Boston, Atlanta, Cleveland and San Francisco . . . and studies show that those programs have not resulted in real integration. Instead, they've helped create real problems. Families have moved out of the cities and into the suburbs to avoid busing. They've dropped out of the school system . . . and the pattern seems to be repeating itself in Seattle. Mandatory busing was introduced to our area by bureaucrats and administrators. Since then, one out of every ten students has dropped out of the Seattle school system. And more forced busing is planned for next year.

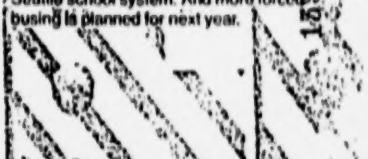
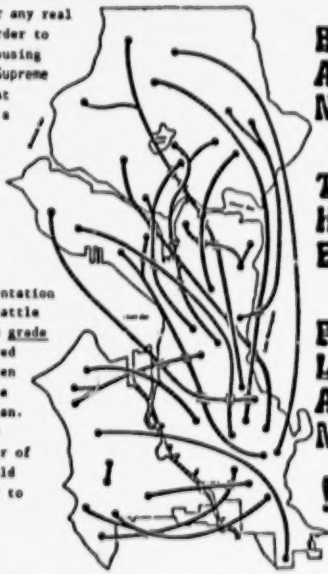


EXHIBIT 15

The Government has not said Education is a 2 hour bus ride!

Seattle is NOT under any real threat of a court order to implement a forced busing program. The U.S. Supreme Court has stated that racial imbalance of a school system does NOT violate the Constitution as long as the schools were not *intentionally* segregated by School Board policy.

This graphic representation of the so-called "Seattle Plan" only shows the grade schools to be involved -- with 9,200 children forcibly bused in the first year of the plan. *Your children may be next:* the second year of mandatory busing would increase this number to 16,000 children.



BAN THE PLAN!

This is the Moberly Plan which forces children to leave their neighborhood schools in a scheme based solely on racial identification -- and which would waste millions of our tax dollars that might otherwise be spent to improve the education of every child in our state.

So far only 6 unrepresentative Seattle School Board members have voted for forced busing. We believe that every taxpayer in our state has the right to decide how our education dollars should be spent.

We need your help to secure our freedom through legal and legislative action.

Ex 10 b/c

Phone 9:30 to 4:00 Weekdays
682-7127 632-3170 632-3177

CITIZENS FOR VOLUNTARY INTEGRATION COMMITTEE (CIVIC)
P.O. Box 24245, Seattle, Washington 98124

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October 20, 1978

Dear Editor:

Please examine *both* sides of the Initiative 350 question which will be on the November 7 ballot.

It is a very simple initiative which will guarantee the right of children to attend the local *neighborhood* schools. Unfortunately, much misinformation has been circulated by 350 opponents in an effort to confuse the public.

Initiative 350 will directly impact Seattle's mandatory busing program. Seattle is the first school district in the state to generally require students to attend a school that is not close to their home. 350 would prohibit — with necessary exceptions — those types of mandatory (far away from home) student assignments from being made in the future. The current operations of 99% of the local school districts in the state would not be directly affected by Initiative 350's passage. Even though 350 does not have any direct impact on other school districts, it does have great statewide significance.

With the advent of statewide funding of schools, every citizen in the state should be interested in how efficiently *all* school districts are operating. Seattle currently spends three times what other school districts spend on school transportation. $480 per student a year for a mandatory cross-city busing program that does not result in better education for anyone or in any more real integration. Taxpayers throughout the state are paying for mandatory busing. State tax money is being diverted senselessly out of the classroom and onto the city streets.

Don't take our word for it that a vote "Yes" on Initiative 350 is the wisest course of action. Read what State Senator Hubert Donahue (D. Dayton) and State Senator Jim Matson (R. Selah) say about the initiative. They've joined such other respected citizens as retired King County Superior Court Judge William L. Wilkins; J. Dorm Braman, former Mayor of Seattle; Orville L. Barnes, Member, State Board of Education; and State Representa-

tive William L. Polk in making a strong statement in support of Initiative 350 (see over).

Please read their statement and if you have any questions regarding Initiative 350, I can be reached at (206) 284-2610.

Sincerely,

/s/_____
Robert O. Dorse
President, CiVIC

EXHIBIT 43

EXCERPTS FROM PREFILED WITNESS STATEMENT OF VEDA LODA JELLEN
(Tr., pp. 7-12)

* * *

Q. What is your employment background?
A. I worked for several years in the field of credit; later for a real estate company and finally for a mortgage company in the preparation of documents for submission to back East banks. We brokered mortgages to back East banks and I prepared those packages for sale.
Q. How did you happen to be the individual who had the responsibility for doing the initial spade work on the initiative?
A. Probably because I had felt for some time that other anti-mandatory bussing groups were headed in the wrong direction and I felt that creating new state law to change the options of the school districts was in order.
Q. Showing you a backside of Krauss Exhibit 6, could you point out the language which relates to that language you drew out of the recent HEW Appropriations Bill?
A. Yes. Section 1 originally when this first started now. Okay. When it was just simply a bare-bones thing. The

language in the HEW Appropriations Bill, Section 208 states, none of the funds contained in this act shall be used to require school district to transport students further than their nearest school.

And then it goes on to use some of the language in our Section 3. The language reads, shall be used to require directly or indirectly. I believe the HEW Appropriations Act shall be used directly or indirectly. And then that same paragraph, that same section in the HEW Appropriations Act goes on to say directly or indirectly; includes the reorganization of grade structure of schools, the pairing of schools, the clustering of schools. So we used that as a basis. Then we attended — members of the Committee attended some of the transportation subcommittee hearings in Olympia where the transportation subcommittee of the House Appropriations Committee was listening to School District superintendents and transportation officers talking about how the nearest school language that was at that time being considered for use in the transportation bills in Olympia might affect their school districts and we took some notes there and then Sam or Dieter Jahns, I guess it was, sent out a letter to who was at that time working on the plan; had sent out a letter to all three hundred school districts across the state asking how that nearest school language might affect them. And so we used the responses to letters also in the development of this.

It was our goal to make this initiative measure as flexible as possible not to interfere with the development of any program in any school district except where they might use mandatory bussing.

Q. Mandatory bussing for any reason?

A. That's kind of a complex question because I personally believe that school districts who are committed to using mandatory bussing to achieve racial integration might very well use another reason for — at least state another reason, you see, for implementing that plan. They might for instance, say that the pairing of schools

offered a better education when indeed their goal was really integration if the initiative was directed strictly to a racial integration of schools.

Q. Then what?

A. What?

Q. If the plan was —

A. If the initiative had been directed to its correcting racial imbalance, if the initiative had said they may not use bussing beyond the nearest or next nearest school to the purpose of correcting racial imbalance, then a school district whose — whose goal might be the integration of the schools could still adopt a pairing plan and say, well, this plan isn't really for integration, it is just to achieve better education. I consider that a not very remote possibility.

Q. What if the mandatory bussing was not for the purpose of achieving racial integration but was indeed for the purpose of furthering, in some positive fashion, the education of some students; what is the position?

A. I can't conceive that mandatory bussing would be necessary for that kind of a problem.

Q. Are you aware of the fact that many school districts in the state transport students beyond their nearest or next nearest school for reason of balancing out the population of buildings or for the reason of to take state funds for transportation for a lot of reasons that don't relate in any way to racial problems?

A. Yes. And we tried to cover those in our exceptions. I think we have pretty well covered those in the — which is getting more funds for transportation. As a taxpayer I would question the validity of that kind of a decision.

Q. These letters that Mr. Jahns sent out to the 300 plus or minus school districts in the state, do you recall or know how many returns the CiVIC received from those districts?

A. I'm afraid I would have to just guess and it probably is best that I don't do that.

Q. Was it a substantial number; was it half?

A. No, I don't think we got a half response. I think maybe

10 or 15 percent might be more accurate.

Q. So that would be somewhere between 30 and 45, 50 returns or so?

A. Yes. I'd have to go back and see the stack and count them but I would say that's probably closer to it.

Incidentally, those schools, those school districts that did show some concern, and there were a couple of very valid concerns, and those were included in the development in the language of the initiative.

Q. Do you recall those districts in particular?

A. One in particular mentioned the fact that any language which used that kind of, you know, nearest school language, it should be very clear that it was within the — within that school district. So that you didn't find yourself, you know, force a child out of a district.

Q. Yes.

A. That was one of them.

Others were talking about the physical barriers that might be found between a student's — between a student's home and his nearest school. Some of them mentioned special education, by the way, and, of course, because the letter didn't relate, you know, specifically to the initiative special education nevertheless was part of the Biden/Eagleton Amendment of the HEW Appropriations Act and had already been included and some of their concerns already had been included in the initiative.

Q. Were Sam Franklin and —What's Oliver's first name?

MR. FRANKLIN: Jim.

Q. (By Mr. Hall) — Jim Oliver the only lawyers who CiVIC conferred with in connection with the drafting of Initiative 350?

MR. FRANKLIN: Wait just a minute.

Counsel, I let you go on on this Initiative 350 because I don't see any harm. I really want to know at this point what the relevancy is to this lawsuit? We are not trying Initiative 350 in any way.

MR. HALL: I realize that. The relevancy is this, and it goes to the motive of the plaintiff in these

proceedings and the objectives processes used by the plaintiff to achieve the self-stated goals of the organization.

MR. FRANKLIN: Well, that's not good enough. I am going to instruct her not to answer any more questions about Initiative 350 unless you can tell me specifically — I am happy to cooperate if you can tell me how inquiry about 350 relates to any of the issues

* * *

EXHIBIT 68

PREFILED WITNESS STATEMENT OF DOROTHY HOLLINGSWORTH

I have been a Seattle resident for 33 years. For seven years I was an employee of the Seattle School District. During that time I served as a social worker for four years and as the Director of the Headstart Program for three years. Since 1969 I have been an employee of the City of Seattle and presently serve as Director for the Division of Children's Services, Department of Human Resources, City of Seattle. In November 1975, I was elected to the Seattle School Board, and I have served on the Board from December 1975 to the present time. I am the only minority member of the seven-person Board. I have personal knowledge concerning the facts set forth below and I am competent to testify thereto.

I am from the South and am familiar with the human loss which occurs when people are denied full involvement in society. I believe that separate education for minorities cannot be equal. To demonstrate my commitment to desegregation, I placed my child at Eckstein Middle School in Seattle's north end in 1963 when Seattle's Voluntary Racial Transfer (VRT) Program began, even though the School District at that time did not provide transportation to and from our Central Area home.

Desegregation of the Seattle Schools is one of the issues I campaigned on when seeking election to the School

Board. I believe that when majority and minority children go to school together the attitudes of both are improved. Teachers' attitudes and performance expectations for a diverse student body may be improved over attitudes and expectations for children in racial isolation. Because the purpose of education is to provide an opportunity to succeed in this world, children have to learn to see themselves as part of an entire culture and not as just an isolated group. Participation in an integrated social system must become a part of their entire personality development.

The Seattle School District is divided into seven director districts. Each geographic district has one seat on the seven member Seattle School Board. Primary elections are held within the director districts. The two highest vote getters in each director district at the primary then are voted on by the entire school district in the general election. The director district I represent is predominantly minority, and in recent times has consistently elected blacks to the School Board and to the State Legislature (37th Legislative District). Until Seattle in the 1960's went from five to seven Board positions with director districts instead of all City-wide elections, blacks did not have a voice on the Board. Senator (then Representative) George Fleming of the 37th District was a sponsor of the change.

I support the desegregation plan adopted by the Board because it fulfills the Board's June 8, 1977 resolution and gives managerial control over movement but allows for educational options as well. The plan is fiscally sound and allows for continuity and stability in educational planning and programming. Movement of whole neighborhoods helps to maintain neighborhood cohesiveness, which is important to minority communities.

I feel the Board's action to voluntarily desegregate without court or federal agency compulsion is sound educationally, responsible, and beneficial to the community. The plan the Board adopted was the only way to assure equity of movement. Equity had to be a part of the plan for the minority community to accept it.

Based on my long time residence in Seattle and my extensive past involvement in public affairs of the community, I feel qualified to state that if Initiative 350 is implemented and the Seattle Plan dismantled, the response of the minority community — especially the black community — could well be to withdraw from carrying the burden of desegregation as they have in the past. The inability under Initiative 350 to desegregate Seattle's public schools (as the Seattle Plan has done) would deprive minority people in Seattle of political and educational goals which are extremely important to them. The immense financial expense of trying a major desegregation lawsuit, with uncertain results, would place a tremendous burden on minorities in comparison with the gains in educational policy which minorities in Seattle have achieved through the local political process. It is likely that many minorities who have in the past volunteered for desegregation would take Initiative 350's implementation as the white culture's rejection of equitable public school desegregation, and return to neighborhood minority schools to work on building strong minority schools. This heightened separatism would, of course, also reduce the number of available placements in near-capacity mostly minority schools, so that fewer white students, even if willing, could volunteer for a desegregation program.

EXHIBIT 93

PREFILED WITNESS STATEMENT OF DR. CHRISTINE ROSSELL

I am an assistant professor of political science at Boston University, and a member of the National Review Panel on School Desegregation Research. Exhibit A is a copy of my current professional vita, which accurately summarizes my academic training, professional experience and publications. The citations indicated in my various publications listed in Exhibit A indicate the type of facts or data upon which I rely in making the conclusions set forth in this statement. These facts and data are of the

type reasonably relied upon by experts and social scientists in the field of public school desegregation in forming their opinions.

Everyone would be in favor of voluntary desegregation if it actually desegregated. The most successful voluntary desegregation plan as of June 1978 is the Milwaukee magnet school plan implemented in Fall 1975 (which this year was altered to include significant "mandatory" assignment). (The most successful as of June 1978 is the San Diego voluntary desegregation plan.) The Milwaukee plan reduced the level of segregation in the Milwaukee school system by 23 percentage points,* but the program failed to attract substantial numbers of white students out of their neighborhood schools In Fall 1975, only three percent of the white student population opted for transfers to magnet schools and only two percent transferred to inner city magnet schools despite the judicial threat of increased mandatory desegregation if the voluntary plans did not desegregate sufficiently. By Fall 1977, the index of dissimilarity (level of segregation between whites and minorities) was 44.8. This figure means that almost 45 percent of all minority students would have to be reassigned from the schools they are presently attending to predominately white schools in order to have each school racially balanced. This is hardly a successful desegregation plan.

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*Measured by the "Index of Dissimilarity." This measure (D) is a standardized measure of racial imbalance or segregation which uses the school district's racial composition as its standard. For example, if a school district is 50 percent minority and 50 percent white, all schools would be "balanced" at 50 percent minority and 50 percent white. The index measures the degree to which they deviate from this and the number itself represents the proportion of minorities who would have to be reassigned if no whites are reassigned, in order for every school to have the same proportion as in the whole school system. (The hypothetical school system mentioned above would receive a score of 0 — *i.e.*, no reassignments necessary.)

A second measure of desegregation's effect is a measure of interracial contact, the proportion white in the average minority child's school. This measure (Smw) is unstandardized and is both a function of racial balance in each school and the proportion white in the whole school

In San Diego, California, which has a voluntary only desegregation plan implemented in the fall of 1977, racial segregation (D) (the proportion of minorities who would have to be reassigned) actually *increased* in 1977. At the same time, interracial contact Smw (the proportion of white students in the average minority students' school) *decreased*. San Diego is sometimes cited as an example of a successful voluntary desegregation plan.

My research comparing the effects on racial segregation (D) and interracial contact (Smw — the proportion white in the average minority students' school) of (a) voluntary only, and (b) mandatory with magnet schools, suggests that the latter type of desegregation plans are most effective in achieving desegregation using the measures described above. The data I have examined from the Seattle School District indicates that the combined mandatory and voluntary magnet school aspects of the Seattle Plan have significantly contributed to the success of the Seattle Plan in reducing the index of dissimilarity and increasing the proportion white in the average minority students' school.

The experience of some school districts suggests there may be a problem of resegregation in magnet-only plans, if there is not the system-wide control of racial balance found in plans with mandatory components. In a magnet-only plan, the white families who volunteer for magnet schools are often "fleeing" a predominately minority school in a changing neighborhood.

My research on magnet school plans as desegregation

---

district. It is useful in comparing the relative effectiveness of "mandatory," mandatory plus magnets and options, and totally "voluntary" plans. It indicates the net increase with desegregation in the proportion white in the average minority child's school because it reflects any decline in white enrollment.

Smw differs from the index of dissimilarity, a measure of racial imbalance, in the following way. A school system which racially balanced its ten schools so that there were 500 blacks in each school and 10 whites in each school would have a perfect racial imbalance score of zero. However, the small number of whites in each school limits the amount of interracial contact and hence it would receive a poor Smw score of .002-2/10ths of a percent white in each school.

tools indicates desegregation plans with both voluntary and mandatory aspects are more than twice as effective in terms of increasing racial balance than are the magnet-only plans in school districts above 30 percent minority (a copy of my February 1979 paper is attached as Exhibit B). In addition, mandatory plans with magnet schools are one and a half times more efficient than magnet-only plans in increasing and obtaining a high level of interracial contact in school districts above 30 percent minority. The proportion minority is an important contextual variable affecting the outcome of magnet school plans because school systems with greater than 30 percent minority student population typically have a greater long term decline in white enrollment. More importantly, it is much more difficult to voluntarily desegregate a school system above 30 percent minority because such a large proportion of whites need to volunteer for magnet schools in a school system with a large proportion of minorities. Hence, there is a ceiling on how much desegregation can be accomplished with a voluntary plan in these school districts.

EXHIBIT 94

JOINT STATEMENT OF SEATTLE BLACK COMMUNITY LEADERS

We, the undersigned, make this joint statement of our perception of the views of the black community in Seattle as to desegregation of public schooling. Our long-time residence in the Seattle area and our extensive involvement in public affairs in the black community and in the community at larege are the bases for our standing to make this statement. Attached hereto and incorporated herein are our respective resumes which reflect our positions and our activities.

We support the Seattle Plan because it fulfills the Seattle School Board's June 8, 1977, resolution to desegregate Seattle's public schools and because the plan is equitable. Historically in Seattle the burdens of reducing segregation have fallen disproportionately on blacks. The

Seattle Plan, with its pairing and triading of schools and its movement of entire neighborhoods by bus, is the only way to ensure equity of movement, that is, minority and white students sharing equally the inconvenience of busing. This equal sharing had to be a part of the plan for the black community to accept and support it. An additional advantage of the plan is that the movement of entire neighborhoods helps to maintain neighborhood cohesiveness, which is important to blacks in the city.

We feel qualified to state that the Seattle School Board's action to voluntarily desegregate the public schools without court or federal agency compulsion is beneficial to this community because it shows the extent of the Board's commitment to an equitable desegregation plan, it raises the black community's trust in a public institution, the Seattle School Board, and it helps to create a healthy civic climate for blacks.

Further, we feel qualified to state that if Initiative 350 is implemented and the Seattle Plan is thereby dismantled, the response of the minority community — especially the black community — could well be to not participate in a voluntary busing program. Many blacks would consider the implementation of Initiative 350 to be the white community's outright rejection of equitable public school desegregation. Many blacks would turn their attention and energy to neighborhood minority schools and the result would be a highly segregated public school system.

The immense expense and substantial delay resulting from a trial of a desegregation lawsuit brought against the School District would place a tremendous burden on the black community. Housing and employment are also segregated in Seattle (as the schools would be but for the Seattle Plan) and health and welfare programs are often racist. The black community is making a concerted effort to end segregation and racism in all forms in this community. A major desegregation lawsuit would substantially detract from efforts in those other major areas of concern.

The Seattle Plan is the result of a political

determination in Seattle that the public schools should be desegregated without court or federal agency intervention. The important black political and education goal of desegregated public schools has been realized in Seattle through the local political process. If Initiative 350 is implemented in Seattle (*i.e.*, the Seattle School District does not assign students to other than their nearest or next nearest schools to reduce racial imbalance), these black political and educational gains would be irretrievably reversed. Not only would the Seattle Plan be dismantled and the public schools resegregated, but future school board action to desegregate the schools (except under court order) would be precluded. The realization of the black political and educational goal of desegregated schools at the local school board level would be impossible, no matter what the local political consensus is and no matter how educationally beneficial school desegregation is.

/s/_____
Fred E. Stephens

/s/_____
Larry Gossett

/s/_____
Meredith Mathews

/s/_____
Jerome W. Page

/s/_____
Lacy Steele

/s/_____
Charles Z. Smith

/s/_____
Samuel B. McKinney

EXHIBIT 95

EXCERPTS FROM PREFILED WITNESS STATEMENT OF DR. MICHAEL J. STOLEE

I. Identification

My name is Michael J. Stolee, and I live at 7033 North Lombardy Road, Fox Point, Wisconsin 53217. I am Dean of the School of Education and Professor of Administrative Leadership at the University of Wisconsin-Milwaukee. My office address is 595 Enderis Hall, 2400 East Hartford Avenue, P.O. Box 413, University of Wis-

consin-Milwaukee, Milwaukee, Wisconsin 53201. I live with my wife, Marilyn S. Stolee. We have two daughters; Meg, a doctoral student at Duke University, and Anne, a sophomore at Yale University.

II. Education

I attended the public schools of Minneapolis, Minnesota, graduating from Patrick Henry High School in January, 1948. From 1948 to 1952, I attended St. Olaf College in Northfield, Minnesota, graduating with a Bachelor of Arts degree with majors in speech and history. In 1959, I was awarded a Master of Arts degree with a major in educational administration from the University of Minnesota, which also granted me the Doctor of Philosophy degree in educational administration in 1963.

III. Professional Experience

I was a high school teacher of history and speech for two years, a high school principal for two years, and a superintendent of schools for five years, all of which was in rural Minnesota from 1952 to 1961. During doctoral study at the University of Minnesota, I was a part-time instructor (50% first year, 75% second year) supervising student teachers and making comprehensive surveys of contracting school systems.

From 1963 to 1965, I was an Assistant Professor of Education in Administration at the University of Miami, Coral Gables, Florida. During this time, I was co-director of the first training program in the United States funded under Title VI of the Civil Rights Act of 1964 (P.L. 88-352). During the 1965-66 year, I was an Assistant Professor of Educational Administration at the University of Massachusetts, Amherst, Massachusetts.

I returned to the University of Miami in 1966 as an Associate Professor of Education in Administration, and was later promoted to Professor. My administrative duties included Director of the Florida School Desegregation Consulting Center (hereinafter referred to as FSDCC), Coordinator of Graduate Studies, Director of the TTT pro-

gram, Director of the Cuban Teacher Retraining Program, and Associate Dean of the School of Education. I left the University of Miami to take my present position in September, 1975.

* * *

EXCERPTS FROM EXHIBIT A TO EXHIBIT 95

Desegregating Urban Schools
GORDON FOSTER

* * * employed. In the Detroit metro plan presented by Judge Roth's panel, the sixteen clusters that combined at least one Detroit high school constellation with several suburban districts generally used the skip zoning technique.[29]

Site Selection and Construction Policies

Where schools are built; whether they open as segregated or desegregated schools; and how building additions, portable buildings, and regular buildings are used are all important factors in the desegregation of pupils. The Supreme Court in *Swann* stated:

> People gravitate toward school facilities, just as schools are located in response to the needs of people. The location of schools may thus influence the patterns of residential development of a metropolitan area and have an important impact on composition of inner city neighborhoods. . . . In ascertaining the existence of legally imposed school segregation, the existence of a pattern of school construction and abandonment is thus a factor of great weight . . . it is the responsibility of local authorities and district courts to see to it that future school construction and abandonment is not used and does not serve to perpetuate or re-establish the dual system.[30]

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[29]The Panel's "Response to the Court's Ruling on Desegregation Cases and Order for Development of Plan of Desegregation," July 29, 1972, *Bradley v. Milliken* 345 F. Supp 914 (E.D. Mich. 1972).

[30]*Swann v. Charlotte-Mecklenburg*, 420 U.S. 1 (1971).

Judge Real in the Pasadena case[31] ruled that "when school officials have located new schools and constructed additions to old schools, and failed to adjust school enrollments to fit school capacities, in such a way as to intensify racial segregation, they have the affirmative duty 'to seek means to eradicate' the results of their discriminatory acts." Judge Roth found in the Detroit case:

> Between 1950 and 1969 in the tri-county (Detroit metropolitan) area, approximately 13,900 regular classrooms, capable of serving and attracting over 400,000 pupils, were added in school districts which were less than 2 per cent black in their pupil racial composition in the 1970-71 school year. The precise effect of this massive school construction on the racial composition of Detroit area public schools cannot be measured. It is clear, however, that the effect has been substantial.[32]

The Dayton case[33] furnishes an excellent example of the way in which school construction has been used by school boards as a technique to maintain segregation. While keeping their attendance zone lines relatively stable, the Dayton authorities since 1950 opened 22 new schools with enrollments ninety per cent or more white or black and made a large number of additions to school buildings which were attended by either predominantly white or black pupils. In this way they assured whites of a school location until they fled to the suburbs and helped to lock in and further isolate blacks living in the compacted inner city.

Long-range policies effecting desegregation through site selection and building programs have been accomplished through two methods: the appointment by the courts of biracial or multiracial committees to serve as

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[31]*Spangler v. Pasadena City Bd. of Education*, 311 F. Supp. 501 (C.D. Cal. 1970).

[32]*Bradley v. Milliken*, 345 F. Supp. 914 (E.D. Mich. 1972), at 932, 33.

[33]*Brinkman v. Gilligan*, S.D. Ohio, December, 1972 C.A. 72-137.

advisory bodies to schools boards,[34] and continuing court injunctions against site purchase or construction bids without prior review by the court.

The use of biracial advisory groups for program approval and advice in desegregation has been required more recently under the Emergency School Assistance Program (ESAP) and Title VII of the "Education Amendments of 1972."[35] In building operations, they can make certain the public has a genuine role in decision-making and could easily serve as legal protection to a school board in later years.

School construction injunctions operate in much the same manner. They give all parties to the litigation an opportunity for hearing and review procedures. In Nashville,[36] and as recommended in Detroit by the Roth panel,[37] no new construction can be planned in the open suburban countryside unless it promotes desegregation. In practice, this could mean that a family might move to a new white suburban development only to find there is no space for their children in the public school nearest the development.

Optional Methods

There are a number of voluntary "optional methods" of pupil desegregation. These have seldom proved effective.

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[34]These are most common in southern cases and received momentum from the 5th Circuit Court of Appeals in *Ellis v. Bd. of Public Instruciton of Orange Co., Fla.*, 423 F.2d 203 (5th Cir. 1970). School boards have not been uniformly receptive to the idea of the "free advice."

[35]Public Law 92-318, 92nd Congress (June 23, 1972) 86 Stat. 354-371.

[36]*Kelley v. Metropolitan Board of Education of Nashville*, 463 F.2d 732 (6th Cir. 1972).

[37]The Panel's "Response to the Court's Ruling on Desegregation Cases and Order for Development of Plan of Desegregation," July 29, 1972, *Bradley v. Milliken*, 345 F.Supp 914 (E.D. Mich. 1972).

In fact, in the North they have more often than not served as a form of state-imposed segregation.

Optional Zones

One of the most popular voluntary methods has been the establishment of optional zones situated between school attendance zones where the racial composition of the population is changing. This allows whites access to a white (or whiter) school until they move elsewhere. Judge Roth's Detroit ruling stated: "The natural, probable, forseeable and actual effect of these optional zones was to allow white youngsters to escape identifiably 'black schools'." The plaintiffs in Dayton presented evidence of a number of such zones which appeared to have racial implications. Optional zones have also been set up for religious segregation (Detroit) or simply to allow people with influence to go to school where they wish.

Open Enrollment

For several years after the enactment of the Civil Rights Act of 1964,[38] it was hoped that "open enrollment" or "freedom of choice" desegregation plans would work. At first, quite a few black children chose to attend formerly all-white schools; few, if any, whites chose to cross over to all-black schools. In many districts where no changes were made to accommodate blacks entering majority white schools, the blacks soon decided they were better off in the security of their own premises. For example, in Jacksonville during this period a considerable number of blacks transferred voluntarily from Matthew W. Gilbert to Andrew Jackson High School. Most of them were back at Gilbert before the first semester was over.

By May of 1968, the Supreme Court held in *Green*[39] that where freedom of choice offers real promise of achieving a unitary and nonracial system, there would be

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[38]Public Law 88-352, 88th Congress (July 2, 1964) 78 Stat. 241.

[39]*Green v. County School Bd. of New Kent County*, 391 U.S. 430 (1968).

no objection to allowing it to prove itself in operation, but that where other methods which promise speedier and more effective conversion to a unitary system are available, freedom of choice is not acceptable. The *Green* decision, for all practical purposes, ended freedom of choice as a desegregation technique.

Majority to Minority Transfers

A variation of open enrollment was introduced by the courts and HEW to allow any pupil who is a member of the majority race in the school he attended to transfer to a school where he would be in the minority. Thus, a black in a ninety-five per cent black school could transfer to any school where there are fifty per cent or more whites. Some court orders permit the transfer only if space is available in the receiving schools; other transfer orders are in effect regardless of space. Of late, all of them include transportation (furnished free by the board) as an incentive. Where a system has no racially identifiable schools and is truly desegregated, majority to minority transfers have no validity as no schools would be substantially disproportionate from the total system in their racial composition. The technique has never been used by whites except to transfer to a school less black than the one to which they were assigned. It has been used sparingly by blacks. It has never accounted for a significant amount of desegregation.

Magnet Schools

One of the most spurious desegregation techniques is the "magnet school" idea. This was probably given most attention in Detroit where the Detroit Central Board endorsed a plan to offer financial incentives for desegregation to regional boards and local schools and promised superior education to students attending an integraged magnet school.

Although the Detroit Board offered several days of testimony on the past success of the magnet plan and its great potential, the plan would take years to affect a significant number of pupils; the Board could not show where the additional operating "bonus" funds of $30 to

$150 per pupil would come from; the magnet middle schools had not aided desegregation but had served as an escape route for whites assigned to predominantly black schools; and the magnet concept itself set up a new type of dual structure with unequal educational opportunities. If one-fourth or one-half of the schools in a system are developed as magnet schools with above-average expenditures and superior programs, then a dual structure has been established. There is nothing wrong with the idea of making every school an accountable, quality institution — that is what school boards and professional educators are supposed to be about; but in the school desegregation arena the magnet concept is a message to the white community which says in effect: "This is a school that has been made so attractive educationally (magnetized) you will want to enroll your child voluntarily in spite of the fact that he will have to go to school with blacks."

Special Programs

A variety of special programs, even more egregious than the magnet proposals, have been offered by school boards as surrogates for genuine desegregation plans. As a second alternative to a metro plan, the Detroit Board proposed "Special Humanities Schools.[40] Approximately 20,000 white pupils in grades 3-6 of the most segregated schools would have been bused from their base school to special rented buildings two days a week for group activities leading to improved racial understanding and learning performance at an estimated cost of $110 per pupil per year.

Memphis offered a nonplan for desegregation called a "Cultural Exchange Program" which was to be supplemented by a "Personalized Educational Television Program (PET) utilizing modern, space-age

[40]Resolution adopted by the Detroit Central Board Dec. 3, 1971, and submitted to the court as Plan C.

communication technology."[41] The Cultural Exchange Program was approved by the district court in its May, 1969 opinion and again featured in "The Memphis Plan" submitted to the court on November 10, 1971. Ironically, one of the four major elements in this plan was that it "should be free of busing"; yet the Cultural Exchange Program component called for busing pupils around the city extensively for field trips and shared classrooms, assembly, musical, and physical education programs. The exchange program had some merit but not as a substitute for desegregation.

Metropolitan Cooperation

A number of metropolitan areas have instituted voluntary desegregation plans involving the busing of inner city pupils to predominantly white, middle class sections of the city or to suburban schools in other cooperating districts: Hartford (Project Concern), Boston (METCO), Newark-Verona, Rochester, New Haven, and others. These programs have received extensive publicity and have been much studies but have little significance for the problem of urban desegregation. Even if successful, they are little more than pilot programs which offer no realistic solutions for ending racial isolation in the large cities. They do not allow for equal participation by both races in the desegregation process but label inner city pupils "disadvantaged" and "inferior" and their schools "second-class." Furthermore, they are voluntary and it is unlikely that any urban or metropolitan desegregation plan can be effected at this time on a voluntary basis.

Open Housing

The most dilatory voluntary plan for desegregation is to wait for open housing and let the problem take care of itself. This is the most logical long-range solution * * *

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[41]The Memphis Plan, Nov. 10, 1971. The Dallas Schools also used Title IV (Civil Rights Act) funds this past year for desegregation via television.

EXHIBIT 99

EXCERPTS FROM PREFILED WITNESS STATEMENT OF DR. EUGENE TONE, ADMINISTRATIVE ASSISTANT, PUPIL PERSONNEL SERVICES, TACOMA SCHOOL DISTRICT NO. 10

I. BACKGROUND AND RESPONSIBILITIES OF DR. EUGENE TONE

1. I am Dr. Eugene Tone, and I reside at 1201 Berkeley, Fircrest, Washington.

2. For the past eleven years I have been the Administrative Assistant for Pupil Personnel Services for the Tacoma Public Schools. I make all of the following statements from my personal knowledge as the person directly involved in monitoring student mobility and maintaining the racial balance in the Tacoma public schools in accordance with appropriate federal and district guidelines, and from the files, records, and statements of persons whom I supervise in this capacity in the ordinary course of my employment.

3. My educational background is as follows: I obtained a Bachelors of Arts degree in Political Science from the University of Washington in 1956. I obtained a Bachelors of Education degree from the University of Puget Sound in 1958, and a Masters of Education degree from the University of Puget Sound in 1962. I obtained my Doctors of Education degree from Washington State University in 1969.

4. My professional experience in the education field, all with the Tacoma School District, is as follows: I was a junior high school teacher for three years (1958-1961) at Gray Junior High School. I spent two years as high school guidance counselor (1961-1963) at Mount Tahoma High School, and two years as a high school assistant principal (1963-1965) at Mount Tahoma High School. I then spent one year as a principal at Mason Junior High school (1967-1968). For the past eleven years, I have been the

Administrative Assistant for Pupil Personnel for Tacoma Public Schools.

5. As Administrative Assistant for Pupil Personnel Services I am responsible for all the attendance services department, and for liaison with the Pierce County Juvenile Court and the police-school liaison program. I am responsible for the students rights policies, appeals and hearings, and student records management. I am also responsible for community school services, and the G.E.D. testing center. I have some responsibility for guidance and counseling, and for the child abuse and neglect programs of the district. I am involved in the development and operation of an alternative high school for Tacoma public schools. I am charged with the direct administration of the district's optional enrollment program, and with the administration of the central area option (or magnet school) program. I have supervisory responsibilities over attendance counseling, and particularly over the summer counseling program which explains to parents and students the options available under the optional enrollment and the magnet school programs. I have, through attendance services, the responsibility to monitor student mobility, and to monitor racial balance throughout the district. I have, finally, responsibilities to assist in the development of district policies in each of my areas of responsibility. I have worked in each of these areas throughout my eleven year tenure as Administrative Assistant for Pupil Personnel Services.

II. HISTORY OF TACOMA SCHOOL DISTRICT ACTIVITY TO REDUCE RACIAL IMBALANCE IN ITS SCHOOLS.

7. For over a decade the Tacoma School District has allowed students to attend schools other than those geographically closest to their homes for the purpose of preserving an appropriate racial balance in its schools. Through a program of both mandatory actions (school closures, racially controlled enrollment at magnet schools) and voluntary alternatives for students and parents, (op-

tional enrollment, busing, and counseling) the Tacoma School District has, to date, lessened racial imbalance in its schools, according to appropriate guidelines. These programs are consistent with the District's Policy 6000, adopted in 1965, which sets forth basic principles relating to equal educational opportunity for all students in the District. All student enrollment in the Tacoma School District is subject to the District's policies of maintaining a racially balanced school district.

8. In the early 1960's, Tacoma School District personnel and community leaders realized that housing patterns and other factors had led to relatively high concentrations of racial minorities at certain of the Tacoma School District's school facilities, primarily in Tacoma's central area. (Admitted by Defendants; Finding ____).

9. Between 1963 and 1965, the Tacoma School District studied the racial balance in the Tacoma School District, and received comment from various community groups and task forces, designed to develop proposals to reduce any racial imbalance in the Tacoma schools. (Admitted by Defendants; Finding ____).

10. In 1964, an examination of the ethnic composition of student populations in the Tacoma Public Schools disclosed that two elementary schools (McCarver Elementary School and Stanley Elementary School) and one junior high school (McCarver Junior High School) had non-white populations in excess of 50% of the school population. Exhibit T-1 is a true copy of the 1964 ethnic composition survey.

11. In 1965, the Tacoma School District adopted Policy 6000. In this policy the School Board set broad policy standards designed to promote equal educational opportunities for all students in the Tacoma School District. Exhibit T-2 is a true copy of Policy 6000. (Admitted by Defendants; Finding ____).

12. In July 1966, recognizing the continuing racial imbalance at several central area schools, the Tacoma School Board adopted a voluntary optional enrollment policy for students attending McCarver Junior High

School, a central area facility experiencing minority enrollment exceeding 50% of the school population. Exhibit T-3 is a true copy of that policy. Students who resided in the attendance area for McCarver Junior High School were given the opportunity to choose to attend other junior high schools in the district. In addition, students at other junior high schools were given an opportunity to attend McCarver Junior High School, provided that such attendance would reduce the degree of perceived racial imbalance existing at McCarver. The School District provided additional special bus transportation for students participating in the optional enrollment program. (Admitted by Defendants; Finding ____).

13. In June 1967, the voluntary optional enrollment program was expanded to central area elementary schools (McCarver, Stanley, Central and Bryant Elementary Schools), wherein students residing in the attendance areas for those schools were given an opportunity to attend any elementary school in the Tacoma School District. Exhibit T-4 is a true copy of the policy statement enacting this program. In addition, optional enrollment opportunities were extended to students attending elementary schools outside the central area to attend these central area elementary schools if transfer into the schools would result in a more heterogeneous student body. (Admitted by Defendants; Finding ____).

14. In October 1967, minority enrollment at McCarver Elementary School, Stanley Elementary School, and McCarver Junior High School was in excess of 50% of the total student population of those schools. Exhibit T-5 is a true copy of the October 2, 1967 ethnic composition survey.

15. In April 1968, the Tacoma School Board adopted major changes designed to ease the perceived racial imbalance in Tacoma schools. The major changes included:

> (1) Closure of McCarver Junior High School as a junior high school, and transfer of all junior high school students attending McCarver to junior high schools throughout the district.

(2) Establishment of an exemplary elementary school ("magnet school") at the McCarver Junior High School facility, with admission open to students throughout the district by voluntary application only, and with student attendance controlled by the district to preserve an appropriate racial balance;

(3) Closure of Central Elementary School;

(4) Transfer of all sixth graders at Stanley Elementary School to other elementary schools throughout the district;

(5) Reaffirmation of the district's position that no high school in the Tacoma School District will be allowed to become *de facto* segregated.

Exhibit T-6 is a true copy of the district policy implementing these changes.

16. Following this school district action, McCarver Elementary School went from an 87 percent black population in 1967 to a 53 percent black population in 1969. Exhibit T-7 is a true copy of the ethnic composition survey dated October 2, 1969.

17. In May 1970, the Tacoma School Board adopted policies specifically committing the district to elimination of racial imbalance to levels within the State Board of Education guidelines, and establishing a technologically advanced elementary school ("magnet school") at Stanley Elementary, with an admission program similar to that existing at McCarver Elementary. Exhibit T-8 is a true copy of the School Board policy adopting this program.

18. By September 1971, elimination of board-defined racial imbalance at McCarver Elementary School had been completed, according to the ethnic composition survey dated October 2, 1971. Exhibit T-9 is a true copy of the October 2, 1971 ethnic composition survey. (Admitted by Defendants; Finding ——).

19. By September 1972, no school in the Tacoma School District had minority enrollment in excess of 50% of total student enrollment except Hawthorne School. Exhibit T-10 is a true copy of the ethnic composition survey dated October 2, 1972.

20. Hawthorne School had, since 1968, housed much

of the District's Headstart and Follow-Through programs, which added sufficient numbers of students to justify an otherwise inefficiently low general enrollment at the school. Those programs continued into the 1973-74 school year, when they were all finally moved to other District facilities. The Hawthorne building was, even in 1972, a substandard structure, and Health Department and Fire Department authorities had raised serious questions about the desirability of Hawthorne continuing to serve children, and particularly young children, because of earthquake damage and structural and other defects sustained by the Hawthorne building. After the District removed its programs from Hawthorne, it leased the facility to the Puyallup Indian Tribe.

21. In November 1972, the Board adopted a limited voluntary optional enrollment program for high school students, allowing high school students to attend, with certain qualifications, the school of their choice. Exhibit T-11 is a true copy of that policy. (Admitted by Defendants; Finding ____).

22. In February, 1974, the Tacoma School Board extended the voluntary optional enrollment program, with certain qualifications, to all grade levels throughout the District. Exhibit T-12 is a true copy of the policy expanding that program. (Admitted by Defendants; Finding ____).

III. CURRENT OPERATION OF TACOMA SCHOOL DISTRICT "MAGNET SCHOOL" AND "OPTIONAL ENROLLMENT" PROGRAMS

23. The Tacoma School District currently operates educationally enhanced (magnet school) programs at McCarver Elementary School and Stanley Elementary School. Both are located in the Tacoma central area. Those elementary schools are now operated as district-wide elementary schools, with attendance selections made solely by application. Students are accepted in those schools according to the number of positions available at the school, and according to the racial balance at the

schools to comply with Tacoma School District and federal racial balance guidelines. (Admitted by Defendants; Finding ____).

24. As a part of the magnet school programs at McCarver and Stanley Elementary Schools, attendance at those schools is controlled by the District to maintain desired racial balance within the District, and federal guidelines. At the initiation of the Tacoma School District magnet school program in 1968-1970 some students living in the geographic attendance areas immediately surrounding McCarver and Stanley Elementary Schools were denied enrollment at those schools because their attendance would disrupt the racial balance. Thus, students, and particularly black students, whose attendance would have disrupted the desired level of racial balance at Stanley and McCarver were assigned to other elementary schools throughout the Tacoma School District. At present, changes in housing patterns, optional enrollment, busing and counseling has allowed all students residing in the McCarver Elementary School geographic attendance area to attend that school if they wish without creating a racially imbalanced school. However, at present 70 students from the Stanley attendance area are being denied admission to Stanley Elementary School. (Admitted by Defendants; Finding ____).

25. The optional enrollment program operated by the Tacoma School District allows students to attend any school within the Tacoma School District, except Stanley and McCarver Elementary Schools, whose attendance is controlled by the District through voluntary applications. To assist students' and parents' decisions concerning optional enrollment, the District has operated an extensive summer counseling program, to counsel parents and students concerning the availability of educational opportunities at schools other than those nearest the homes of the students. (Admitted by Defendants; Finding ____).

26. Public transportation is an element of both the magnet school and the optional enrollment programs.

Transportation is funded by the District, though transportation services are actually delivered by the Tacoma Transit System. District and transit personnel examine the busing patterns yearly, comparing bus routes with the results of the summer counseling programs, to meet the needs of students participating in the magnet school and the optional enrollment programs. Busing patterns are currently designed to provide bus transportation within two blocks of the student's home, to and from the school of his choice. Currently, approximately 1,394 students elementary school bus into and out of the Tacoma central area as a part of the magnet school program. Approximately 1,200 additional students annually participate in the optional enrollment program, and many of those students use bus transportation to travel from their homes to their school. Of the approximately 1,394 students busing in and out of the Tacoma central area to schools throughout the District, approximately 444 are elementary school children who reside in geographic areas in which either McCarver or Stanley are their nearest elementary schools. For most of those students, McCarver or Stanley is also their next-nearest school.

IV. EFFECT OF INITIATIVE 350 ON TACOMA SCHOOL DISTRICT.

A. EFFECT ON MAGNET SCHOOLS — STANLEY ELEMENTARY

27. At present, only those students on the Stanley Elementary waiting list who reside in the geographic area where Stanley is their nearest school are prevented by the district from attending their nearest school. Those students involuntarily attend schools other than their nearest school as part of the magnet school program. Of those students, approximately 53% are minority students. Exhibit T-13 shows the ethnic composition of the students on the Stanley waiting list who reside in the Stanley enrollment area.

28. If the Tacoma School District could not require the students on the Stanley waiting list to attend schools

other than Stanley the minority enrollment at Stanley (assuming that there is sufficient room for the students to attend Stanley) would be 49%. If the District assigned those students to McCarver (assuming McCarver is their next-nearest school) minority enrollment at McCarver (assuming that there is sufficient room for the students to attend McCarver) would be 42.3%. Exhibit T-13 shows the ethnic composition survey for Stanley and McCarver as presently exists.

29. Stanley Elementary School is located in an area of Tacoma with high residential concentrations of minority persons. Exhibit T-13 shows ethnic composition of all students in the Stanley and McCarver geographic attendance area.

30. If the Tacoma School District cannot require students residing nearest Stanley Elementary School to attend schools other than Stanley or McCarver because their attendance would disrupt the racial balance at those schools most Stanley area students currently attending schools outside the Stanley geographic areas may continue to do so. However, most new Stanley area students starting school, and most new students moving into the Stanley attendance area will choose to attend the school nearest their residence.

31. Because analysis of the ethnic composition survey at Stanley Elementary shows that the school will be near 50% minority enrollment if the District allowed the students on the waiting list to enroll, and because the geographic area nearest Stanley is predominately minority and will probably continue to be predominately minority in the future, the effect on Stanley Elementary School of limiting the District's ability to require students to attend schools other than their nearest or next-nearest school may be to increase minority enrollment at Stanley and, thus, increase racial imbalance.

32. Exhibit T-14 is a copy of a survey chart showing the historical growth of minority enrollment in the Tacoma School District. Much of the growth in minority enrollment has occurred due to increased minority

residence in the McCarver and Stanley attendance areas.

B. EFFECT ON MAGNET SCHOOLS — McCARVER ELEMENTARY

33. Although Tacoma School District programs currently keep McCarver Elementary from becoming racially imbalanced according to the pertinent guidelines, enrollment at McCarver is near racial imbalance under those guidelines. Exhibit T-13 shows the ethnic composition of current enrollment at McCarver Elementary. If the 70 students on the Stanley waiting list were assigned to McCarver, McCarver would have even greater minority enrollment.

34. Like the Stanley geographic attendance area, McCarver is located in an area of Tacoma with high residential concentrations of minority persons. Exhibit T-13 shows the ethnic composition of all students residing in the McCarver attendance area.

35. Although most McCarver area students currently attending schools outside the McCarver attendance area may continue to do so, most new McCarver area students starting school, and most new students moving into the McCarver attendance area will choose to attend the school nearest their residence.

36. Because analysis of the ethnic composition survey at McCarver indicates minority enrollment near racial imbalance under appropriate guidelines, and because the McCarver geographic attendance area is predominately minority and will probably continue to be predominately minority in the future, the effect of limiting the District's ability to require students to attend schools other than their nearest or next-nearest schools on McCarver Elementary School may be to increase minority enrollment at McCarver and, thus, to cause racial imbalance under the guidelines in the near future.

C. EFFECT ON STANLEY AND McCARVER — COMPUTER ANALYSIS

37. After voter approval of Initiative 350, and after initiation of this lawsuit, the Tacoma School District, and

particularly those of us in Pupil Personnel, became interested in the impact of the Initiative on assignment of students in the Tacoma central area, which we defined as the geographic area immediately surrounding Stanley, McCarver and Bryant Elementary Schools. We were particularly interested in the impact of the following language of the initiative:

> * * * no * * * school district * * * shall directly or indirectly require any student to attend a school other than the school which is geographically nearest or next nearest the student's place of residence * * * and which offers the course of study pursued by such student * * *

38. For most of the students residing nearest McCarver and Stanley elementary schools, McCarver and Stanley are the nearest and next-nearest schools. Because both schools are at or near specified racial balance limits, we perceive little flexibility to adjust racial composition at, for example, Stanley by assigning students whose nearest school is Stanley to attend their next nearest school, McCarver. Given the ethnic composition of the Stanley and McCarver attendance areas, both schools appear destined to become racially imbalanced unless mandatory assignment to schools outside the nearest/next-nearest categories is permitted. We therefore sought to test, by computer analysis, whether, through the assignment of students residing in the Stanley, McCarver and Bryant geographic areas to their nearest and next-nearest schools, the District could eliminate racial imbalance at those schools. In a meeting on March 15, 1979, after discussions with District personnel and the attorneys for the Tacoma School District, Superintendent Alex Sergienko authorized me to proceed with such a study.

39. The goal of our study was to use the nearest/next-nearest criteria to assign as many white students to the central area schools from outlying schools as possible, and to assign as many minority students to the outlying schools from the central area schools as possible.

40. To perform this study, we utilized computer-

stored enrollment information obtained from the student data files compiled October, 1978. That information is continuously updated with revised data showing student mobility. The information contains, among other data, the student's name, ethnic background, street address and grade level, for all of the approximately 15,680 elementary school students in the Tacoma School District.

41. We sent the tapes containing this basic information to Tacoma City Light. Tacoma City Light maintains a computer program called "add. match" which matches city street addresses with city plots. By applying the students' computer information to this program, City Light calculated the distance from the plot of the students' residence to their nearest and next-nearest schools, in distances of feet and tenths of miles. From this information, we extracted the information we needed to perform our computer study of student assignments using the nearest/next-nearest criterion.

42. Exhibit T-16 is a computer printout showing the sequential steps of our study, and the results. The pages of the printout have been numbered in the lower righthand corner, page one through twenty-one, for convenience of reference.

43. Page one of the computer analysis shows the ethnic composition of McCarver Elementary School if the district assigned all students residing nearest McCarver to that school. The "column total" at the bottom of the table shows the number students of each ethnic group, and the total percentage of such groups to total enrollment. There are, for example, 106 caucasian students (25.4%), and total combined minority enrollment of 311 minority students (74.6%). The table on page one also shows students' next-nearest school. There is, therefore, one student whose nearest school is McCarver and whose next-nearest school is Bryant; 337 students whose nearest school is McCarver and whose next-nearest school is Stanley; and 79 students whose nearest school is McCarver and whose next-nearest school is Willard.

44. Page 2 provides similar information concerning

the students residing nearest Stanley Elementary School. Thus, 107 students (24.4%) of the students residing nearest Stanley are caucasian. The remaining 75.6% of the students are ethnic minority students. In addition, 175 students whose nearest school is Stanley have Bryant as their next-nearest school; 45 have Franklin as their next-nearest school; 211 have McCarver at their next-nearest school; and 7 have Reed as their next-nearest school.

45. Page 3 provides similar information for Bryant Elementary School. Caucasian enrollment would be 336 students (64.7%). The remaining 35.3% of the students are minority students. Next-nearest schools are Franklin (44 students), Grant (275 students), Lowell (32 students), McCarver (5 students) and Stanley (163 students).

46. Page 4 summarizes the ethnic composition of students residing nearest to Bryant, McCarver and Stanley Elementary Schools. The "columns totals" indicate that 40% of all students residing nearest those central area facilities schools are caucasians, and 60% of those students are ethnic minorities.

47. To obtain the table shown on page 5, we asked the computer to assign all caucasian students whose next-nearest school is McCarver into McCarver. In this way, we obtained the maximum number of caucasian students who reside nearest or next-nearest McCarver as students at McCarver. The "column totals" show that as a result of such an assignment, we have increased the caucasian enrollment at McCarver from 106 students (25.4%) to 173 students (35.7%).

48. To obtain page 6, we instructed the computer to reduce the number of minority students at McCarver so that total minority enrollment equalled caucasian enrollment, by assigning minority students whose nearest school is McCarver to their next-nearest schools. Because we perceived that we would experience large minority enrollment at Stanley, we assigned minority students from McCarver to Stanley only if we could not assign such students to any other schools. The resulting "column totals" therefore show caucasian enrollment of 173 students

(50%) and combined minority enrollment of 173 students (50%).

49. Pages 7 and 8 show the schools to which the minority students were assigned, to obtain the results shown on page 6. Thus, 75 minority students whose nearest school was McCarver were assigned to Stanley (page 7), and 63 minority students whose nearest school is McCarver were assigned to Willard (page 8).

50. Page 9 shows the ethnic composition at Stanley Elementary School after the assignments made in the previous steps. The number of caucasian students, therefore, has been reduced to 57 students (12.3%). Minority enrollments has increased to 406 students (87.6%). The left hand column shows the next-nearest school for those assigned to Stanley. The bottom row, denominated "Stanley" shows those students whose nearest school was McCarver and who were assigned to Stanley as their next-nearest school.

51. To obtain the table shown on page 11, we instructed the computer to assign to Stanley as many caucasian students whose next-nearest school is Stanley (except those whose nearest school is McCarver) as possible. By doing this, we increased the total number of caucasian students attending Stanley to 229 students (36.1%). Page 10 shows the total ethnic composition of students at Stanley after performing this assignment. The left hand column of the table on page 12 shows the nearest school of those students assigned to Stanley in the previous steps.

52. We next instructed the computer to assign as many minority students attending Stanley as possible to their next-nearest school, and obtained the table shown on page 17. The column totals indicate that 229 caucasian students (49.2%) remain at Stanley. Total combined minority enrollment is 236 students (50.8%). The table on page 17 also shows the next-nearest school of all students attending Stanley. The table on page 16 shows the nearest school of all students attending Stanley after these assignments. Pages 13 through 15 show the number and ethnic

composition of the minority students assigned from Stanley to their next-nearest school: Reed (4 students); Franklin (34 students); Bryant (132 students). Pages 18 through 20 provide similar information.

53. Page 21 shows the ethnic composition of Bryant Elementary School after performing the assignments set out above. Caucasian enrollment at Bryant is now 240 students (43.2%), with total combined minority enrollment of 315 students (56.8%). The table on page 22 shows ethnic composition at Bryant, and also shows the next-nearest school of those students attending Bryant.

54. We next instructed the computer to assign as many minority students whose school is Bryant as possible to their next-nearest school (except those whose next-nearest schools were McCarver or Stanley). The first line of the table on page 23 shows the ethnic composition of Bryant after performing that assignment. Caucasian enrollment at Bryant would be 240 students (54.1%) after that assignment.

55. The table on page 23 summarizes the ethnic composition of students at Bryant, McCarver, and Stanley Elementary Schools after the District makes assignments using the nearest/next-nearest criteria to attempt to reduce minority enrollment to 50% or less in each of those schools.

56. The following statements briefly summarize the results of the computer study:

57. Assuming that all voluntary or optional enrollment and magnet school programs currently operated by the Tacoma School District were eliminated, if all students living nearest McCarver Elementary School attended that school, minority enrollment at McCarver would be 74.6%. If all students living nearest Stanley Elementary School attended that school, minority enrollment at Stanley would be 75.6%. Those schools would be racially imbalanced, according to district and federal guidelines.

58. If all non-minority students whose next-nearest school was McCarver were assigned to McCarver, and if a

sufficient number of minority students whose nearest school is McCarver were assigned to their next-nearest school, so that minority enrollment equaled non-minority enrollment, McCarver Elementary School would be racially balanced according to District and federal guidelines. Total enrollment at McCarver, however, would be 346 students, which is 36 per cent less than its current enrollment which is its optimum enrollment for educationally and economically efficient operation.

59. After the student assigments described in 58 above were made, minority enrollment at Stanley Elementary School would by 87.7%. If all non-minority students whose next-nearest school was Stanley (except those whose nearest school is McCarver) were assigned to Stanley, and if *all* minority students whose nearest school was Stanley were assigned to their next-nearest school (except those whose next-nearest school is McCarver), minority enrollment at Stanley would be 50.8%. Stanley Elementary School would remain racially imbalanced according to district and federal guidelines. Total enrollment at Stanley in addition, would be 465 students, which is 25.5 per cent less than its current enrollment, which is its optimum enrollment for educationally and economically efficient operation.

60. After the student assignments described in 58 and 59 above were made, minority enrollment at Bryant Elementary School would be 56.8%. If all minority students whose nearest school is Bryant (except those whose next-nearest schools are Stanley or McCarver) were assigned to their next-nearest schools, minority enrollment at Bryant would be 45.9%. Bryant Elementary School would be racially balanced according to district and federal guidelines.

61. Assuming that none of the programs currently operated by the Tacoma School District to adjust racial balance in Tacoma Public Schools were continued, and assuming that students at McCarver, Stanley, and Bryant elementary schools were assigned to only their nearest or next-nearest schools, the Tacoma School District could not

adjust student enrollment by assignments of students to prevent Stanley Elementary School from being racially imbalanced according to district and federal guidelines.

V. OVERALL EFFECT OF IMPOSING THE "NEAREST/NEXT-NEAREST" CRITERIA UPON TACOMA SCHOOL DISTRICT ENROLLMENT POLICIES.

Based upon my experience as Administrative Assistant for Pupil Personnel Services, and upon information made available to me by those attendance counselors who work with me and under my supervision, and based upon the information and exhibits discussed above, I draw the following observations, conclusions and opinions:

A. THE TACOMA SCHOOL DISTRICT CANNOT MAINTAIN RACIAL BALANCE IN McCARVER AND STANLEY ELEMENTARY SCHOOLS IF IT CANNOT REQUIRE STUDENTS TO ATTEND SCHOOLS OTHER THAN THEIR NEAREST OR NEXT-NEAREST SCHOOLS.

62. My experiences with counseling parents and students concerning alternatives in optional enrollment is Tacoma schools indicate the parents overwhelmingly prefer to have their children attend the school nearest their residence. This preference is particularly strong for parents of children in grades kindergarten through third grade. Because we control enrollment at Stanley and McCarver to maintain appropriate racial balances at those schools, we are able to tell parents that their children must attend schools outside the Stanley and McCarver area. Parents reluctantly accept that policy.

63. If we could not require parents to send their children to schools other than their nearest school, a significant number of parents would respond by seeking to have their children enrolled in their nearest school. Based upon my experience, I would estimate that 25% of the students residing nearest McCarver and Stanley but attending schools other than those schools would return to

McCarver and Stanley, if given the opportunity to do so, within the first year they have that opportunity. Within 3 or 4 years, I believe 40-50% of such children would return.

64. It is also my experience that the parents of new students, including those first entering school and those transferring into a new residential area, prefer to have their children attend the school nearest their home.

65. The computer study discussed above shows that if those students *currently* residing in Tacoma's central area were assigned by the district to their next-nearest schools in an attempt to eliminate racial imbalance at McCarver, Stanley and Bryant Elementary Schools, Stanley would still have minority enrollment in excess of 50% of total enrollment.

66. Given the racial composition of the residential neighborhoods for which Stanley and McCarver are the nearest and next-nearest schools, and the attitudes of parents who prefer that their children attend their nearest school, and the overall trend of growing minority enrollment in Tacoma schools, and all the data and information available to me, it is my opinion that the Tacoma School District cannot maintain an appropriate racial balance in McCarver and Stanley Elementary Schools if it cannot require students to attend schools other than their nearest or next-nearest schools. Although McCarver and Stanley may not become racially imbalanced in the first year a nearest/next-nearest policy is imposed, I believe minority enrollment in these schools would become progressively greater, and that racial imbalance would exist within 2 years.

B. THE TACOMA SCHOOL DISTRICT CANNOT MAINTAIN EFFECTIVE MAGNET SCHOOLS AT McCARVER AND STANLEY UNLESS THOSE SCHOOLS ARE RACIALLY BALANCED

67. The magnet school programs at Stanley and McCarver control racial balances at those schools because we are able to attract sufficient numbers of non-minority students from outside the central area to those schools. This

increased caucasian enrollment, when coupled with our ability to require minority students residing near McCarver and Stanley to attend schools outside the central area, allows us to maintain an appropriate racial balance at those schools.

68. Based upon the results of our counseling program, and the input received by me from parents and counselors, caucasian students will attend educationally enhanced "magnet" schools (such as McCarver and Stanley) if those schools are racially balanced. Sufficient numbers of caucasian students residing outside the central area will not, however, attend those schools if they are racially imbalanced.

69. McCarver and Stanley are racially balanced, at least in part, because we can require students residing near those schools to attend other schools.

70. If we could not require students to attend schools other than their nearest or next-nearest schools, McCarver and Stanley would experience increased minority enrollment almost immediately, and progressively greater minority enrollment over the next few years. As minority enrollment nears racial imbalance, the number of caucasian students from outside the McCarver and Stanley areas attracted to the magnet school programs at those schools would decrease, and the percentage increase in minority enrollment would therefore accelerate.

71. The magnet school concept is based upon the ability to attract some students away from their nearest school and into the magnet school. If McCarver and Stanley experience increased minority enrollment and racial imbalance, we will not be able to attract caucasian students, and the magnet program will fail to assist in maintaining racial balance at McCarver and Stanley.

C. THE TACOMA SCHOOL DISTRICT FACES SERIOUS PUBLIC OPPOSITION IF IT ATTEMPTS TO CONTROL RACIAL IMBALANCE BY ASSIGNING STUDENTS TO THEIR NEXT-NEAREST SCHOOLS.

72. Based upon my experience, the Tacoma School

District's programs to eliminate racial imbalance in the schools have been successful, at least in part, because there has not been widespread or violent public opposition to the programs.

73. I believe the reason that the public has accepted the Tacoma School District programs is that, to a large extent, the programs have progressively *expanded* the attendance options available to parents and students, and that the element of free choice has been injected into the attendance programs. Even prior to adoption of the optional enrollment program, the district has maintained a policy of allowing students to transfer to any school pursuant to a "special purpose transfer" if the students or parents felt entrapped by their residential or educational situation. The optional enrollment policies contributed additional choice alternatives into parents' and students' enrollment decision. Even under the magnet school program where students residing near McCarver and Stanley are required to attend other schools, such students may choose any school in the district (except Stanley) and are provided transportation to attend those schools. Our discussions with parents and students indicate that "choice" and "options" are now key parts of parents' understanding and perceptions of their "rights" to education in Tacoma public schools. Through the optional programs, no student is "assigned" to a school against their will, although a few students are denied attendance at the school they first select.

74. If the District cannot control racial balance by assigning students to schools other than those nearest or next-nearest their homes, the Tacoma School District will have to specifically assign students to their next-nearest schools, in order to attempt to achieve racial balance in its schools. The element of "choice" inherent in the current enrollment policies of the District will be removed. Because we would be limiting or removing parents' perceived "rights," it is my opinion that the district faces significant opposition to implementation of a policy of mandatory assignment to next-nearest schools.

D. A MANDATORY ASSIGNMENT POLICY WILL RESULT IN FEWER STUDENTS ATTENDING THEIR "NEIGHBORHOOD SCHOOLS" THAN EXISTS UNDER PRESENT POLICIES.

75. From my experiences counseling parents in the magnet school and optional enrollment policy, I have learned that parents perceive their "neighborhood school" to be the school nearest their home. When we deny parents' application to have their children attend their nearest schools (i.e., Stanley), parents usually do not care whether the school their children attend is their next-nearest school or a school across town, if the District provides convenient and efficient bus transportation.

76. If the Tacoma School District cannot require students to attend schools other than those nearest or next-nearest the students' homes, we will have to assign considerable numbers of students to their next-nearest schools, in order to maintain appropriate racial balances at the schools.

77. McCarver and Stanley Elementary Schools currently comply with appropriate racial balance guidelines in part because 444 students who reside in the McCarver and Stanley attendance areas attend schools outside those areas under the optional enrollment and magnet school programs. (Exhibit T-13). According to the computer study discussed above, if the Tacoma School District was to attempt to comply with the same racial balance guidelines by the mandatory assignment of students to their next-nearest schools, 658 students would be assigned, and the student populations of the following schools would be affected: McCarver, Stanley, Bryant, Willard, Franklin, Reed, Grant and Lowell Elementary Schools. The District would therefore "move" 48% more students than move under existing programs *without* achieving the goal of racial balance at Stanley.

78. Under present policies, no students are involuntarily *assigned* to any school, and only approximately 70 students (i.e., those on the Stanley waiting list)

are denied access to the school of their first choice. All other children not attending their nearest school do so voluntarily under the optional enrollment program.

79. If the district adopted a policy of mandatory assignment to next-nearest schools in order to attempt to avoid or reduce racial imbalance in the schools, fewer students would be attending the school nearest their home than are presently doing so under policies of the Tacoma School District. Given parents' perception that "neighborhood school" means the school nearest their home, fewer students would be attending "neighborhood schools" under the nearest/next-nearest policy than presently do so.

E. THE TACOMA SCHOOL DISTRICT CANNOT PREVENT RACIAL IMBALANCE IN OTHER SCHOOLS THROUGH SOLELY VOLUNTARY PROGRAMS. RESTRICTION ON ITS ABILITY TO PREVENT STUDENTS FROM ATTENDING THEIR NEAREST OR NEXT-NEAREST SCHOOLS WILL MAKE IT DIFFICULT OR IMPOSSIBLE TO MAINTAIN RACIAL BALANCES IN OTHER TACOMA SCHOOLS.

80. Although counseling and voluntary transportation within the optional enrollment program currently eliminates racial imbalance in other Tacoma School District facilities, at least four elementary schools (Roosevelt, Bryant, Lister, and Rogers Elementary Schools) and two junior high schools (Gault and McIlvaigh) have minority enrollment near enough to federal and district racial guideline limits to pose substantial danger of failure to comply with those guidelines in the future without the use of involuntary assignment to schools outside the nearest/next-nearest categories. Exhibit T-15 is a true copy of the current ethnic composition surveys for all Tacoma schools.

81. Given the trend of increasing minority enrollment in the Tacoma School District, we project increasing difficulty in keeping the schools listed above within appropri-

ate racial balance guidelines through use of the voluntary programs now extant.

82. In my opinion, the Tacoma School District must immediately begin to plan and develop programs designed to reduce the growing minority enrollment in the schools listed above, to prevent those schools from becoming racially imbalanced.

83. Restrictions on the Tacoma School District's ability to require students to attend schools other than those nearest or next-nearest their homes will inhibit the districts' ability to develop enrollment policies sensitive to the individual desires and needs of parents and students, and will instead require mandatory assignments and dislocations of students to their next-nearest schools.

VI. CONCLUSIONS

84. Without the magnet school and optional enrollment programs, the Tacoma School District faces a substantial probability that it could not maintain racial balance at present levels in the future.

85. If Initiative 350 prevents the Tacoma School District from assigning students to schools other than those nearest or next-nearest their place of residence, the Tacoma School District cannot keep its schools racially balanced according to district and federal guidelines.

86. The impact of prohibiting the Tacoma School District from assigning students to schools other than those nearest or next-nearest the students' home would be the loss of the District's successfully balanced multi-racial school system, and violation of the fundamental public policy favoring maintenance of a multi-racially balanced educational experience for students in Tacoma.

(Continued From Inside Front Cover)

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